

Effectiveness Study of the Dangerous Wild Animals Act 1976

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Executive Summary

The Dangerous Wild Animals Act 1976 was intended to regulate the keeping of certain kinds of dangerous wild animals in order to protect the public.

This review was commissioned to determine the effectiveness of the Act, as currently administered, in achieving its aims. A major component of this review involved a questionnaire based survey of all 410 local authorities in England and Wales. Wide consultation with individuals and organisations with an interest in the Act was also carried out.

Control of the Act was transferred in February 1980 from the Home Office to the Department of the Environment (now the Department for Environment, Food and Rural Affairs (DEFRA)). The Schedule to the Act has been modified on a number of occasions; most notably, in 1984, when the Department appeared to change its listing policy to include animals with the potential to be dangerous, without requiring their actual danger to be established.

The 1984 Schedule is now considered by many respondents to be out of date; some of the animals included are not perceived to be dangerous by many animal keepers. There have been some changes to the taxonomy of listed animals, and these must be corrected in the Schedule to avoid legal dispute. The addition of hybrid mammals to the 1984 Schedule caused significant confusion and prompted a high number of enquiries to DEFRA from local authorities. We propose a rewording of the hybrid entry, in an attempt to clarify the meaning, based on our consultation with DEFRA and local authorities, and on the deliberations of the courts.

The Act is administered by local authorities, and licensing procedures and fees charged were found to vary widely between areas. This has caused widespread frustration to licensees and those applying for licences. Some local authorities have failed to apply mandatory conditions to licences, others have granted unlawful retrospective licences. Local authorities received a guidance circular from the Home Office shortly before the Act came into force, but there has been no official guidance from a government department since then.

Certain provisions of the Act have been widely misunderstood and are not considered adequate by many respondents. A particular problem recognised is the issue of power of entry to a premises where an offence is suspected, but no licence has been granted or applied for. We present our legal opinion on this subject. Other shortcomings identified include the "72 hour rule", which allows the movement of dangerous wild animals for up to 72 hours without the need to inform the local authority, and the omission of a clause to make it an offence to transfer ownership of a dangerous wild animal to an unlicensed keeper. We offer recommendations to improve these deficiencies.

As no central record of Dangerous Wild Animal licences has been kept, figures of the numbers and types of animals held have been obtained through various surveys. Since the last survey in 1989, the numbers of animals held has greatly increased from 851 to 11,878 animals. However, almost 89% of the animals licensed in 2000 are farmed species (ostrich, emu, wild boar, bison and guanaco). It is our opinion that many of the farmed animals should be excepted from the provisions of the Act, in line with Parliament's original intention to exclude professional animal keepers, and because subsequent legislation now provides sufficient control.

The source of animals has also altered since 1976. In the 1970s, large carnivores were widely available from zoos and safari parks and this prompted the drafting of the Dangerous Wild Animals Bill. Today, the Secretary of State's Standards of Modern Zoo Practice prevent animals being transferred to private owners except in special circumstances. Much more important in 2000 is the

sale of animals by private breeders and the uncontrolled importation into the UK from the European Community. Pet shop sales seem to be minimal.

It is considered that the Act has been largely successful in protecting the public from extremely dangerous wild animals. However, one group of animals that have not been successfully controlled are venomous snakes. The ownership of these animals is very easy to conceal, they are easily imported from Europe and they adapt and reproduce well in captivity. Other species likely to be widely kept without a licence are those animals not considered to be dangerous by many keepers, such as procyonidae and small primates. The Act is viewed with disdain by many animal keeping organisations, and penalties awarded by magistrates for non-compliance have not been seen as an effective deterrent.

We propose that the 1984 Schedule should be updated, to remove some kinds of animals that have not been shown to pose a serious danger to the public. This will improve the credibility of the Act, and should go some way to encouraging compliance. Additionally, we propose that local authorities should be provided with updated guidance on the provisions and implementation of the Act.

Also included in this report is a review of the way in which the Dangerous Wild Animals Act 1976 might be affected by the Human Rights Act 1998. We have identified a possible conflict between the two pieces of legislation concerning the powers of the local authority to retain, destroy or dispose of a seized animal, without a provision for appeal by the keeper.

The possibility of incorporating circus winter quarters into the provisions of the Dangerous Wild Animals Act has been considered and rejected.

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1. Introduction

This review of the effectiveness of the Dangerous Wild Animals Act 1976 (DWAA) has been produced for the Global Wildlife Division of the Department for Environment, Food and Rural Affairs (DEFRA). The study was commissioned to determine the effectiveness of the Act, as currently administered, in achieving its aims. This was to be carried out by reviewing the provisions of the Act, the species listed on the Schedule and guidance given to local authorities (LAs). Interaction with associated legislation was to be considered, as was any potential conflict with the Human Rights Act 1998. An investigation of the suitability of the DWAA for licensing circus winter quarters was a specific requirement.

During the course of this report, there has been a reorganisation of relevant governmental departments. The Department of the Environment, Transport and the Regions (DETR) and the Ministry for Agriculture, Fisheries and Food (MAFF) were merged in June 2001 to form DEFRA. Any reference to DETR in this report should now be considered to refer to DEFRA.

2. Methodology

An important component of the review was a questionnaire-based survey of local authorities (LAs) in England and Wales (described in more detail in Chapter 5). A copy of the questionnaire and covering letter is appended in Annex 1. Other methods used in this review included consultation by letter, telephone and in person with various individuals and organisations with an interest in the Act. A consultation list is appended in Annex 2. Previous reviews, guidance to LAs, and comparable and related legislation have also been considered. Original parliamentary proceedings and DEFRA files have been reviewed in an attempt to determine the original aims of the legislation and subsequent implementation policy.

3. History and Development of the Dangerous Wild Animals Act 1976.

Background

The development of a large number of private zoos and commercial safari parks in the United Kingdom during the late 1960s and early 1970s led to an increasing trade in the young of large species of dangerous carnivores. Lion, tiger, leopard and puma cubs were widely advertised for sale to the general public and were bought as pets, and a fashion appeared to develop for the keeping of other large exotic pets. As a consequence of this, a number of incidents involving escapes and attacks on members of the public by such animals occurred and were widely publicised, leading to concern among animal experts and politicians.

On 10 November 1975, a parliamentary question was asked about regulations covering the keeping of lions and tigers in private hands. The Home Officer Minister replied "*It is an offence at common law to cause a public nuisance by keeping animals to the danger of the public, and the Animals Act 1971 enables damages to be recovered for injuries caused by animals*"¹.

A similar question on 27 November asked for the introduction of legislation to restrict the keeping of lions and other dangerous animals and elicited a similar reply, with the addition that the Home Office was not satisfied on the information at present available that any further legislation was required. The following day, *The Times*, under the headline "Vets call for law to control savage

¹ Hansard House of Commons Debates, 1975 vol 902

beasts as pets"² reported that the British Veterinary Association (BVA) was pressing for legislation to control the keeping of non-domestic animals, such as lions, by private individuals. The Home Office reportedly refused to respond, saying that the dangers were not yet great enough. Attempts were being made to introduce a Private Members Bill, and the BVA were concerned about sudden risks to the public and the welfare of the animals.

The Zoological Society of London (ZSL) added more pressure, through a letter from the Curator of Mammals, expressing the hope that "*the country is now sufficiently aware of the danger, and that Parliament can act speedily and sensibly to avert the accidents that must otherwise occur*".³

Within two weeks, on 17 December 1975, a "Bill to regulate the keeping of certain kinds of dangerous wild animals" was presented to Parliament⁴.

Progress of the Dangerous Wild Animals Bill

The Bill was presented to the House of Commons by Esmond Bulmer MP on behalf of Peter Thomas MP as a Private Member's Bill. It had actually been prepared by Peter Temple-Morris MP, but he had been unsuccessful in the ballot. Peter Thomas, who came 20th and last in the ballot, took up Peter Temple-Morris's Bill and put it forward.⁵

On 6 February 1976, the Bill, which was not published in Hansard, received its Second Reading without a debate and was referred to a Standing Committee.

On 10 March 1976 the Bill came before Standing Committee F, under the chairmanship of Janet Foukes MP⁶, which included the Home Office Under Secretary Dr. Shirley Summerskill. It was considerably amended in committee and the amendments were debated on 14 May 1976 and the Third Reading passed.

On 15 June 1976 the Bill passed to the House of Lords and received its Second Reading⁷. During the debate, Lord Chelwood gave a thorough outline of the aims and details of the Bill, pointing out that there had been no Second or Third Reading debates in the House of Commons and so far there had been no comprehensive record of Parliament's intention in Hansard for public information.

On 2 July 1976, the House of Lords reviewed and amended the Bill in Committee⁸, following a preparatory meeting with Peter Thomas MP and Home Office officials, and on 16 July the Commons considered the Lords' amendments⁹.

The Bill received its Royal Assent on 22 July 1976¹⁰ and the Dangerous Wild Animals Act 1976 came into force on 22 October 1976. Current holders of scheduled animals were allowed 3 months from that date to apply for licences.

² *The Times*, Nov 28, 1975: 6

³ Brambell, M.R. *Veterinary Record*, Dec 6, 1975

⁴ Hansard House of Commons Debates, **902**, col. 1399

⁵ Temple-Morris, P., personal communication

⁶ Standing Committee, session 1975-1976, vol VII: 1-47

⁷ Hansard House of Lords Debates, **371**, col. 1177-97

⁸ Hansard House of Lords Debates, **372**, col. 962-9

⁹ Hansard House of Commons Debates, **915**, col. 1138-41

¹⁰ Hansard House of Commons Debates, **915**, col. 2065

Evolution of the Act and the Intention of Parliament

Aim of the Bill

Parliamentary debates make it clear that, from the outset, the Bill was intended only to regulate the keeping of **certain** kinds of dangerous wild animals, presumably those about which public concern had recently been generated (i.e. large cats, wolves, bears and venomous snakes). Thus the legislation was intended to cover animals listed in a Schedule *"of limited scope"*¹¹ and it was emphasised that *"the Bill deals with animals, mainly of an exotic nationality, specified and universally recognised as dangerous"*¹². The Home Office emphasised that there was provision for the private keeping of dangerous wild animals only in exceptional circumstances and that Clause 1 was drafted to *"indicate bias against granting licences in ordinary circumstances"*¹³ although those different circumstances were never defined. There was also the intention of *"excluding any sort of commercial keeping of wild animals from the Bill"*¹⁴ to avoid confusing the issue. In the Lords, it was explained that *"this Bill deals in a timely way with a mischief which has already become apparent, and which, without provision of this kind, definitely threatens to grow larger"* and that *"The main purpose is to discourage the keeping of dangerous wild animals as pets, but is sufficiently flexible to allow for exceptional circumstances"*¹⁵.

Lord Chelwood emphasised the non-controversial nature of the Bill, it having received strong support in the Commons despite being 20th in the Private Members' ballot, and he acknowledged the help and support of the Home Office (in some contrast to the Parliamentary written answers given by the Minister only six months before). This strong support, coupled with further emphasis that the provisions for licensing under the Bill were *"stringent requirements"* and that *"..the general policy of the Bill is quite clear. It is that in future the keeping of dangerous wild animals by private individuals should be made a wholly exceptional circumstance"*¹⁵, leads to the conclusion that Parliament's intention was legislation to deal with the immediate problem at hand. It was felt that *"...it would not be right to introduce a system of control which constituted a wide-ranging interference with the keeping of species which, with the observance of sensible precautions, present no threat in normal circumstances"*.¹⁵

The need to protect the welfare of licensed animals was recognised and the Bill sought to avoid the risk *"of keeping animals in cruel and unsuitable conditions"*¹⁶. However, *"although the welfare of the animal is catered for, the Bill is primarily aimed at the protection of the public and public safety"*¹⁷. The welfare aspects of the Bill were clearly secondary in intention to public safety. That this meant the general public was clarified by Lord Nevill- *"we do not mind wild animals tearing their owner to pieces - that is their owner's affair - but not the general public!"*¹⁸ The safety of the owner's immediate family seems not to have been considered either way.

Structure of the Bill

From the beginning, it was intended that the Bill should have an attached Schedule listing those animals to which, for the time being, it applied. Thus *"the Bill does not attempt any general definition of a dangerous wild animal, which would indeed be difficult..."*¹⁹, despite the precedent of a working definition in the Animals Act 1971 (see Chapter 17), and it was intended *"to specify*

¹¹ P. Thomas, Standing Committee

¹² P. Temple-Morris, Debate on Committee Amendments

¹³ Dr. S. Summerskill, Hansard, House of Commons Official Report, Standing Committees vol 7

¹⁴ Dr. S. Summerskill, Hansard, House of Commons Official Report, Standing Committees vol 7

¹⁵ Lord Chelwood, Second Reading, House of Lords Official Report, Fifth series, vol 374

¹⁶ House of Lords, Second Reading, House of Lords Official Report, Fifth series, vol 374

¹⁷ P. Temple-Morris, Debate on Committee Amendments, House of Commons Official Report, Standing Committees vol 7

¹⁸ Second Reading Debate, House of Lords Official Report, Fifth series, vol 374

¹⁹ Lord Chelwood. House of Lords Second Reading, House of Lords Official Report, Fifth series, vol 374

in the Schedule to the Bill those species which are self evidently dangerous". The Schedule was to be kept short, by the omission of those animals unlikely to be kept (in which category were included rhinoceros, hippopotamus and some insects). Identification in the Schedule had to be by scientific classification, although this was amended in Standing Committee to add common names in a second explanatory column.

Provisions of the Bill

A number of the detailed provisions of the Bill were amended in Committee and provoked considerable debate and concern, not all of which was ultimately reflected in the Act. It is important to recognise, however, that the substantial issues of policy in the Bill remained unchallenged.²⁰

(i) LOCAL AUTHORITY FEES

This subject probably generated the most controversy, as it continues to do today (see Chapter 6). Various attempts were made to control or rationalise the fees charged by local authorities for inspection, including a proposed amendment for a scale of fees for different animals²¹, and the setting of a maximum fee. The Home Office indicated that no set fee was appropriate "*in accordance with the present practice of allowing local authorities to determine levels of fees*"²². The House of Lords proposed an amendment that local authorities should only be able to charge a fee sufficient to cover their full administration costs, with provision for recovery of any other expenses, but agreed that fees should not be specified in the Bill as they tended to fall rapidly behind through inflation. When this amendment was considered in the Commons²³, it was noted that the House of Lords had expressed concern "*that local authorities should be given guidance or at least an intimation that it was not the Bill's intention that fees should be used as a weapon to prevent people applying for licences or keeping the animals covered by them*".

(ii) POWERS OF ENTRY, SEIZURE AND DESTRUCTION

The local authority's powers of seizure and destruction were questioned in Committee and debate, but it was felt that prior referral to a Magistrate's Court was inappropriate because of the likely need for urgent or emergency destruction, as it would be generally viewed that the dangerousness of wild animals would be obvious. The lack of specified powers of entry was not discussed in the Commons or in Standing Committees, but was questioned in the House of Lords Second Reading debate, as posing the same problem as had occurred under the Breeding of Dogs Act 1973, in that there were no powers of entry unless a licence had been applied for²⁴. However, no amendment was introduced.

(iii) VETERINARY INSPECTION

It was specified in debate by the Home Office that a local authority could refuse a licence without veterinary inspection (on other grounds) but could not grant one; i.e. the veterinary inspection should be the last requirement in the process. Two amendments were proposed in Standing Committee: the first would have permitted a licensee to object to an inspector on the ground that he was insufficiently qualified; the second would have required a LA to appoint a veterinary surgeon whose name appeared on a list drawn up by the British Veterinary Association (BVA) and the Royal College of Veterinary Surgeons (RCVS) (as for the Riding Establishments Act 1964)²⁵. Although the sponsors agreed to consult the BVA on the role of vets, this second amendment was debated in the Commons but, like the first, was not adopted. According to the Home Office Minister, the original amendment requiring the veterinary inspection "*does not specify that the*

²⁰ P. Temple-Morris, Debate on Committee Amendments, House of Commons Official Report, Standing Committees vol 7

²¹ Standing Committee F Session 1975-1976, vol. VII: 17

²² Dr. S. Summerskill, Debate on Committee Amendments, House of Commons Official Report, Standing Committees vol 7

²³ Hansard House of Commons Debate, 915: 1139

²⁴ Lord Clifford, Hansard House of Lords Debates, 371:1177-97

²⁵ Standing Committee F, Session 1975-76, vol. VII: 24

veterinarians authorised to inspect premises should have knowledge which is appropriate to the creature involved, and it would therefore in theory be possible for a local authority to arrange for the inspection of a cassowary's cage by a man whose whole professional life had been devoted to the veterinary care of dogs, cats and guinea pigs. But I think we can take it as read that a local authority would not do anything so absurd. In most cases, local authorities would seek the advice of a veterinarian on the staff of a zoo, and I think that they can be relied upon to match the experience necessary to the animal involved".²⁶

(iv) TRANSFER AND SALE

Cranley Onslow MP raised the question of whether it should be an offence to transfer the ownership of a dangerous wild animal (DWA) (or for a pet shop to sell one) and compared the issue to the licensing of firearms²⁷. The sponsors responded that they thought it would be sufficient to make unlicensed ownership an offence, stating *"it must be made clear to all those dealing in animals that not to have a licence before taking possession or purchase is to commit an offence"²⁸. A pet shop could be charged with aiding and abetting the offence by knowingly selling to an unlicensed owner". Sale or transfer to unlicensed owners was not made an offence under the Act.*

(v) EXEMPTIONS

Throughout the progress of the Bill it was made clear that its intention was to control the private keeping of dangerous wild animals by the general public. Professional and commercial animal keeping was to be regarded differently and this was confirmed by exempting pet shops, premises licensed for scientific procedures, zoos and circuses. Reassurance was given that pet shops were already controlled by licensing, and that a zoo licensing system was under development²⁹. (Attempts had been made to introduce a Zoo Licensing Bill since 1969, but it would be a further 5 years before the Zoo Licensing Act was passed). The position of circuses was not expressly referred to, but it was perhaps expected that a zoo licensing act would control circuses as well.

Schedule of Dangerous Animals

It was never intended that the legislation should define what was meant by "dangerous" in the context of wild animals kept as pets. The Act simply provides that an animal is to be regarded as dangerous if it is of a type which is specified in the Schedule. This allows the Secretary of State considerable discretion to vary the definition. The original Schedule was kept quite short in accordance with what kinds of animals were likely to be kept. Peter Thomas MP said *"We have tried to keep the Schedule as short and as reasonable as possible. Various animals are clearly dangerous and could have been included. We did not think, for instance, that the rhinoceros need be included. We had no evidence that a rhinoceros was likely to be kept in domestic captivity"* and *"Given that the power [to add or subtract] rests with the Secretary of State we thought that we should keep the Schedule as short as possible"³⁰. The Home Office Minister confirmed that the sponsors had selected the Schedule by considering what species *"tend to be kept by private owners in their own homes"³¹, although the final Schedule was undoubtedly developed with the help of outside experts.**

Questions were raised about the inclusion of some species. Marcus Kimball MP, in committee, questioned the need for including ratites (emu, rhea and ostrich) as being unnecessarily burdensome, and requested (successfully) the removal of the red fox because foxhunts made a practice of rescuing cubs and then moving them around. Most native species were excluded because of the difficulties licensing would cause for rehabilitation.

²⁶ Hansard House of Commons Debates, 911: 836

²⁷ Hansard House of Commons Debates, 911: 838

²⁸ P. Temple-Morris, Hansard House of Commons Debates, 911: 836

²⁹ Lord Chelwood, Hansard House of Lords Debates, 371: 1177-97

³⁰ Hansard House of Commons Debates, 911: 845

³¹ Hansard House of Commons Debates, 911: 845

Constrictor snakes (Boidae) caused the biggest discussion and a specific amendment (number 25) to include them was proposed by Philip Goodheart MP because, even though *"no causes of injury were known"*, they might *"cause psychological distress by their presence"*³². Peter Thomas MP stated that he had consulted the Zoological Society of London and the Herpetological Society and had been advised that these snakes were not dangerous to people and were often kept in schools. His explanation for recommending withdrawal of the amendment restated the basic philosophy of the Bill - *"Unless these animals are very big they cannot do any real injury to a human being and are not likely to. The Bill is concerned with public safety and its basic philosophy is that an animal must be so obviously dangerous that one must do something to prevent it being kept by a private individual, except in exceptional circumstances"*³³. The amendment was withdrawn on the grounds that, according to Lord Chelwood³⁴, it would be further considered, but there is no evidence that this occurred until 1983.

No other specific discussion of the list of Scheduled animals took place.

Parliamentary Questions

Since the Act was passed, there have been a number of Parliamentary Questions and Written Answers about the workings of the Act. Their contents are summarised with comments as follows, by date and Hansard entry: -

1981	999: 54W	Question:	Request for a published list of Schedule animals
		Answer:	Home Office currently revising Schedule.
			This relates to the Modification of the Schedule in 1981.
1983	45: 258-9W	Question:	Whether the Secretary of State is satisfied with the workings of the Act and had received any representations.
		Answer:	Generally working well. Representations from Circus Proprietors about problems obtaining licences to take animals outside premises.
			This relates to the change in interpretation of circuses following the Graham-Jones case (see Chapter 13).
1983	51: 32-3W	Question:	What plans to amend the Schedule and is it proposed to list squirrel monkeys?
		Answer:	Hope to issue a revised Schedule in 1984. Squirrel monkeys being considered in the light of views of leading animal experts.
1985	72: 709W	Question:	Request to extend DWAA to N. Ireland.
		Answer:	Refused
1985	87: 259W	Question:	How many councils have issued licences, the names of those local authorities and the fees charged?
		Answer:	Fees necessary to cover costs. No central record kept of licences or fees.
1986	102: 875W	Question:	Repeat request for listing of fees in Official Report
		Answer:	Referred back to previous answer

³² Hansard House of Commons Debates, **911**: 846

³³ Hansard House of Commons Debates, **911**: 850

³⁴ Hansard House of Lords Debates, **371**: 1177-97

1990	166:507W	Question (for Secretary of State for Scotland): Any plans for controlling all types of dangerous animals? Answer: Sufficient controls exist.
1993	221: 88W	Question: Any plans to list "Timberwolf" crossbreeds? Answer: Already listed
		Question: How many are there? Answer: Central records not held
	250: 385W	Question: Repeat of previous question Answer: Repeat of previous answer
1995	256: 329W	Question: Any plans to include American mink, Arctic fox and Raccoon-dog on Schedule? Answer: Farm Animal Welfare Council (FAWC) recommended. Consultation going on.
1995	258: 748W	Question: If MAFF will insist that mink and arctic fox farms are listed under DWA? Answer: FAWC have recommended it. Under consideration.
1996	270:541W	Question (to SoS Northern Ireland): What inspections have been made of private residences in Omagh where dangerous wild animals are being kept? Answer: Under Welfare of Animals Act (Northern Ireland) 1972, Department of Agriculture has inspected. Confirmed welfare needs were covered.
		Question: To extend DWAA to Northern Ireland Answer: Under review
		Question: What advice from RUC on this issue? Answer: RUC calling for equivalent legislation. Under review.
		This refers to the potential development of a new DWAA in Northern Ireland which is still ongoing.
1997	297: 445W	Question: Are mink and fox to be added to the Schedule? Answer: No. MAFF has responsibility for legislation concerning fur farming.
1997	298: 433W	Question: Which animals are to be added to the Schedule? Answer: None

The main concerns expressed in these questions seem to have been regarding fees for licences and the need for a central record of licensing. Questions regarding the Schedule generally seem to have been designed to prompt responses about negotiations which were ongoing because of outside representations.

In 1991, a Dangerous Wild Animals Act 1996 (Amendment) Bill was presented by Bob Cryer MP and others, with the aim of adding Tosa dogs and pit bull terriers to the Schedule³⁵. The Bill

³⁵ Hansard House of Commons Debates 191: 784

underwent its First Reading and was ordered to be printed, then had its Second Reading deferred twice³⁶, was evidently not printed and ultimately disappeared. Presumably it was dropped in favour of the Dangerous Dogs Act 1991.

Alterations to the 1976 Act

There have been three alterations to the Act as a result of subsequent legislation.

Section 5 Exemptions

Subsection (1) "Zoological garden" is changed to "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". (Zoo Licensing Act 1981 s.22 (1)(a)).

Subsection (4) "a place registered pursuant to the Cruelty of Animals Act 1876 for the purpose of performing experiments" is changed to "a place which is a designated establishment within the meaning of the Animals (Scientific Procedures) Act 1986". (Animals (Scientific Procedures) Act 1986 s.27(2) section 3, provision 10).

Section 6 (1) Penalties

The penalties for an offence under DWAA were altered to a "level of fine" system by the Criminal Justice Act 1982 s.38 & 46. See Chapter 8.

Evolution of the Schedule and listing policy

The DWAA provides for the Secretary of State (SoS), if satisfied, to extend or diminish the Schedule by adding or excluding species by making the necessary order³⁷, to be exercised by Statutory Instrument³⁸. From its inception until 1980, the Act was administered by the Home Office, but on 11 February 1980 responsibility was transferred to the Department of the Environment (DoE)³⁹, along with responsibility for zoos⁴⁰.

A comparative table of the original 1976 Schedule and the effect of subsequent Modification Orders is shown in Annex 3.

Only one modification order was made under the auspices of the Home Office, which excepted the Arctic fox (previously included under Canidae) from the Schedule.⁴¹ This was on the basis of the special circumstance that the animal was farmed⁴². Prior to transfer to DoE, the Home Office had received representations that ferrets, certain colubrid snakes, and New World monkeys (Cebidae) should be added.

Representations about ferrets resulted from the death of a baby in 1979, killed by two ferrets in the home. In response to the coroner's recommendation that the species be listed, the Home Office undertook external consultation, but the representations it received were overwhelmingly against listing⁴³. DoE concurred with the Home Office conclusion that listing could not be justified as the incident appeared unique, and the number of ferrets kept was so large that enforcement would be impossible.

Representations about certain colubrid snakes ("back-fanged" species) were received from local authorities, in particular following a severe envenomation incident from a red-necked keel back

³⁶ Hansard House of Commons Debates **192**: 1222 and **193**:657

³⁷ DWAA Section 8 (1)

³⁸ DWAA Section 8 (2)

³⁹ DETR File Section DRA 4

⁴⁰ DETR File DRA4 12994/3

⁴¹ Statutory Instrument 1977/1940

⁴² Home Office File ANM 76 3/62/24

⁴³ Home Office File ANM 78 63/20/6

snake⁴⁴, and from ZSL because the mole viper, scheduled under Viperidae, had been reassigned to Colubridae. The British Museum⁴⁵ recommended listing four genera of colubrids⁴⁶ suggested by a number of experts in snake bite poisoning. Following consultation, the Home Office advised the SoS to list the four genera⁴⁷ and a Parliamentary Question was posed on 4 December 1978. It is unclear why this proposal was not carried through at the time, but DoE's subsequent interpretation was that there was a lack of information about the number of snakes in public ownership or evidence of any real volume of threat to public safety⁴⁸.

Representations about New World monkeys were made chiefly by the Federation of Zoological Gardens (FZG) on the basis of welfare, trade and the risk of injury. FZG was unable to substantiate the risk posed by the numbers of animals in private ownership or the possibility of injury or attacks.

Documents in Home Office files⁴⁹ relating to these three proposals are important in summarising the Home Office's view about listing. They show that its approach largely reflected Parliament's declared intention that animals should only be listed if they posed a substantial risk to the public, evidenced by actual incidents and a high number of the relevant type of animals being kept privately. Initially, the DoE adopted a similar policy at the time it became responsible for administering the Act, its approach being "*that the power to amend the Schedule should be exercised only in exceptional circumstances and where the reasons for doing so were fully justified, otherwise a control which related to criminal law would be undermined*"⁵⁰. In the event, none of the three proposals above was carried forward until 1984.

1981 Modification Order (SI 1981/1173)

This Order, the first implemented under DoE authority, added a large number of species to the Schedule; in all 12 families were added and one⁵¹ removed. The majority of these were large and clearly dangerous species (such as elephants, hippopotamus and rhinoceros), which might hitherto have been considered to be zoo species and unlikely to be kept by the general public as pets, although large private collections of zoo animals were becoming more common at that time.

A meeting with experts had been held on 29 January 1981, including Dr. M. Brambell from Chester Zoo and Miss M. Badham from Twycross Zoo as representative of the FZG, at which "*criteria had been developed for determining whether or not an animal should be included in the Schedule*"⁵². There is no record of these criteria and none of the original experts we have consulted can recall for certain what they were. It may be that it was at this meeting that criteria subsequently quoted by Dr. Brambell⁵³ were applied.

These can be summarised as "if,

- a) the animal's scratching and biting is worse than that of a domestic tom cat (i.e. worse than what is clearly tolerated in the domestic situation) it can be regarded as dangerous;
- b) the animal's butt or kick is worse than that of a domestic horse or billy goat it can be regarded as dangerous;
- c) the animal's sting is worse than that of two wasp stings [it can be regarded as dangerous]".

⁴⁴ Mather, H.M. *et al.* (1978) Severe envenomation from a "harmless" pet snake. *BMJ* 1: 1324-5

⁴⁵ E. N. Arnold, Reptile Section

⁴⁶ *Atractaspis, Dispholidus, Rhabdophis and Thelotornis*

⁴⁷ Home Office File ANM /76 3/62/24, 9/8/78

⁴⁸ DETR File DRA4/4662/1

⁴⁹ Home Office File ANM 78 63/20/5

⁵⁰ DETR Files DRA4/4662/1

⁵¹ Rheidae - rheas

⁵² DETR Files H/P50/10325/81 in DRA 4/2994/3

⁵³ National Federation of Zoological Gardens of Great Britain and Ireland. Memorandum to Council 18 Feb 1991

1984 Modification Order (SI 1984/1111)

This Order excluded the raccoon dog from the listed Canidae and extended the Schedule to include New World monkeys and certain mustelids, snakes, spiders, scorpions, and hybrids.

The reasons for undertaking this further review of the Schedule are contained in a DoE departmental submission to ministers, following consultations which took place in 1983, requesting the modification to the Schedule. It is indicated that the 1981 Modification Order was "rushed through ... in response to pressure for the removal of certain glaring anomalies". An explanatory note had been added that a second stage revision would follow. This second stage was undertaken "in response to pressure from the RSPCA [Royal Society for the Prevention of Cruelty to Animals] and others for the listing of additional animals, including New World monkeys, certain snakes and mustelids"⁵⁴.

A committee of invited experts was established and met twice (24 February 1983 and 11 October 1983). The committee included representatives from DoE, the zoo and veterinary professions, the herpetology societies and the pet trade, and the RSPCA. It was hoped that this revision would fulfil the needs of the Act for the foreseeable future⁵⁵.

DoE was taking a broader approach than the Home Office and was prepared to list animals which were unlikely to be kept privately, provided they were known to be dangerous. This change in policy was based on the view that animals considered potentially to be dangerous were candidates, and that danger did not necessarily have to be already proven. However it remained the case that the Act was not intended for the protection of the keeper and that fear of danger by third parties was not relevant. It was not accepted that disease risk was a criteria for listing, nor was animal welfare or unsuitability as a pet^{55,56}.

DoE presented the meeting with an outline list for consideration (which we have not seen). However, much discussion clearly took place: for example, at the first meeting some 17 species of cat were recommended for exclusion, but these proposals were rejected at the second meeting. Agreement could not be reached on the listing of New World primates and this was left to be decided administratively. Judging by the background notes in the submission to the Minister⁵⁶, this decision of whether such animals should be listed seems to have been based on the relative sizes of their lower canine teeth, and eventually only marmosets were excluded. It was clear that there was little consensus among the committee that monkeys below the size of capuchins were truly dangerous.

Various criteria were proposed for recognising an animal as dangerous. Those "put forth previously by Dr. Brambell (Chester Zoo) and Mr. Allcock (BVA)" (presumably those quoted above from 1981) were said by the Pet Trade Association representative not to match the intentions of the originators of the Act. DoE recognised a higher threshold of risk than that proposed by RSPCA ("more than a negligible injury") and defined it as "the capability to injure a neighbour's child whether following an escape into the next door garden or from visits by the child to the house where the animal was kept". It was agreed that "the definition of danger by reference to whether an animal was more dangerous than the feral domestic tom cat had served as a useful benchmark". The former definition was reiterated in the ministerial submission.

The rationale for excluding certain species was explained in some detail in the ministerial submission. Deer were excluded largely because the expert committee felt that they were normally kept in farms or parks and not by private individuals, and MAFF advised that as deer farming was a growing sector of the livestock industry, they would be opposed to moves to classify deer as dangerous wild animals (DWAs). MAFF had deer under close scrutiny and the matter was essentially an agricultural one (see Chapter 11). Deer parks were felt likely to be subject to the Zoo

⁵⁴ DoE Ministerial submission 1983

⁵⁵ Meeting to Discuss the Schedule to the Dangerous Wild Animals Act 24 February 1983 (Minutes)

Licensing Act; in fact, they had been specifically excluded three years before! Mink were also excluded as being licensed under MAFF legislation, and the ferret as being a domestic animal (prior consultation had taken place about ferrets in 1979).

Native badgers, seals and otters were believed to be seldom kept by private individuals except for rehabilitation purposes, and it was felt that listing of these species would hinder such work.

Constrictor snakes and tarantulas were reported to be virtually harmless to humans and the snakes unlikely to reach dangerous physical proportions in private collections. The arguments relied upon exactly mirrored those used in the original Parliamentary debate.

Further modification proposals

No subsequent modification to the Schedule has been carried out, although extensive representations have been made to DoE/DETR by private individuals, animal keeping and farming organisations and local authorities. Repeated promises of a further review were made to correspondents⁵⁶, but the only review (undertaken in 1989) of licences and ownership (see below) did not prompt any review of the Schedule. The only significant attempt to add further species to the Schedule in the interim came from the Farm Animal Welfare Council (FAWC) in the form of comments on the Golding Report (Review of Legislation Pertaining to the Keeping of American Mink and Arctic Fox), commissioned by the charity Respect for Animals in 1994⁵⁷. FAWC recommended that the mink and arctic fox, together with the raccoon dog, be added to the Schedule because, as essentially wild animals, they were insufficiently protected by farming legislation. Despite prompting through parliamentary questions from 1995 to 1997, MAFF apparently rejected this advice and DETR deferred to their authority over farmed species. No change was made to the Schedule.

Guidance provided on the DWAA

Since the Act's inception in 1976, there has been little guidance provided to local authorities. In anticipation of the Act coming into force the Home Office sent a circular⁵⁸ to local authorities and the police informing them of the main provisions of the Act which was due to come into operation on 22 October of the same year. The circular outlined the intentions of the Act, summarising each section and bringing certain licensing issues to the attention of licensing authorities. The guidance provided was comprehensive, and clarified issues that local authorities still request information on today. Since being issued however, the circular has all but disappeared and very few people now have access to a copy. An Appendix to the circular was issued, relating the DWAA Schedule to CITES (Convention on the International Trade in Endangered Species) controls, with an important suggestion that a reminder about DWAA provisions should be added to the application forms for import licences. The suggestion about import licences was eventually taken up.

A circular providing guidance to local authorities on the need to licence wolf hybrids under DWAA reached a draft stage in 1995, but was not subsequently sent out. The wolf hybrid issue was fully researched in 1999, but the report and guidance are as yet unpublished⁵⁹.

No further official guidance specifically on the DWAA has been issued to local authorities, although a more general joint DETR/Home Office circular providing information on the keeping of wild animals in captivity is currently at the draft stage, and is due to be sent out in the near future. Whilst this provides only a basic overview of the DWAA, it has the advantage that the provisions of the Act can easily be compared with other pieces of animal-related legislation. Since this circular is to be published over the internet, it will allow the document to be regularly updated, and provides free access for all.

⁵⁶ DETR Files WLF 2994/14-20

⁵⁷ FAWC. Letter to MAFF. 25 October 1994

⁵⁸ Home Office circular No. 112/1976 Dangerous Wild Animals Act 1976

⁵⁹ Cusdin, P.A. and Greenwood, A.G. (1999) The Keeping of Wolf Hybrids in Great Britain. DETR/RSPCA. Unpublished

A guide for Environmental Health Officers to the licence application process is provided in a standard manual⁶⁰ likely to be held by most Environmental Health departments, and there are chapters on the Act in animal law textbooks⁶¹, although these may not be accessible to local authorities.

Two documents have been published as guidance to veterinary surgeons. A document produced in 1976 by the BVA⁶² made some attempt at defining extremely basic guidelines on accommodation, feeding and diseases of the scheduled families, and provided contact details for members of the British Veterinary Zoological Society (BVZS) if further advice was required. No mention was made in this document of the need for an inspector to have experience with the relevant animals. A paper published in the *Veterinary Record*⁶³ provided guidance to veterinary surgeons to assist them in compiling a report. Although this paper did not specify that an inspecting vet should have relevant experience in the species they are to inspect, it did suggest that the local authority appoint a non-veterinary expert to accompany the inspecting vet to assist with identification of the species and to advise on its particular requirements and husbandry.

4. Previous reviews of licensed Dangerous Wild Animals

Throughout the lifetime of the DWAA, neither responsible Department has maintained a central database of information on licences in force or animals being kept. A number of reviews and surveys have been conducted in an attempt to obtain this information.

1976 Survey

A survey was carried out by the RSPCA in February 1976 after the Dangerous Wild Animals Bill received its Second Reading in the House of Commons. A circular was sent to RSPCA Branch Officers by RSPCA Headquarters requesting from them information on any "dangerous wild animals" being kept as pets in their area.

146 questionnaires were returned, 105 of which were nil returns. Most of the information was provided by local authorities and licensing officers.

Care should be taken when comparing the numbers of animals reported in this survey to the survey conducted by us in 2000. The RSPCA survey requested information on broad groups of animals, such as poisonous and non-poisonous snakes and monkeys, even though not all species within these groups were to be covered by the DWAA. However, information was not requested on some kinds of animals that were to be included on the 1976 Schedule, such as venomous lizards, nor on kinds of animals added to the Schedule when it was subsequently modified. The survey also included animals kept in pet shops, which are exempt from the provisions of the Act.

The results from the 1976 survey reported the following animals in 41 branch areas:

- 19 primates plus 5 reports of unspecified numbers**
- 31 carnivores**
- 29 reptiles (including boas and pythons)**
- 1 collection of scorpions and spiders**

⁶⁰ Bassett, W.H. (1987) *Environmental Health Procedures* 2nd Edition. HK Lewis & Co Ltd, London

⁶¹ Blackman, P.E., Humphreys, P.N. & Todd, P. (Eds) (1989) *Animal Welfare and the Law*. Cambridge University Press, New York

⁶² British Veterinary Association. October 1976. *Dangerous Wild Animals Act 1976. A Guide to Veterinary Surgeons concerned with inspections under this Act*

⁶³ Cooper, M.E. (1978) The Dangerous Wild Animals Act 1976. *Veterinary Record* **102**: 475-477

1980 Survey

The results of a survey conducted by the Association of British Wild Animal Keepers (ABWAK) in 1980 were published in 1981⁶⁴. A letter was sent to 333 local authorities in England and Wales, excluding the Metropolitan authorities of London. The reply rate achieved was 89%, with 66 authorities (22%) having issued licences to keep DWAs in 1980.

The results of this study revealed a total of 176 animals being held under 66 licences, which broke down as follows:

85* cats	13+ crocodilians
4 bears	15 snakes
6 wolves	5 lizards
16 foxes	32+ primates

*of the 85 cats recorded, 68 were held in two collections.

The 1980 survey also requested information on the fees charged by local authorities for DWA licensing which are summarised in table 1 below.

Table 1. Licence cost in 1980

Cost of a DWA licence in 1980		
	Including vets fees	Excluding vets fees
Mean	£43.34 (£110.88)	£21.80 (£55.77)
Minimum	£10.00 (£25.58)	£3.00 (£7.68)
Maximum	£150.00 (£383.76)	£85.00 (£217.47)

Figures in parentheses are the price equivalent in 2000⁶⁵.

The authors of this survey noted that those authorities charging very high fees appeared to be actively discouraging the keeping of DWAs.

The survey also requested information on instances of offence under the Act, but few cases were reported.

1983 Survey

A survey was sent to local authorities by the RSPCA in 1983, requesting details of primates being kept in their area. We have not received a copy of the full report, but have been provided with a summary of the findings. The results include primates being kept in pet shops (which are exempt from the DWAA), and New World monkeys, which at the time of the survey were not scheduled under the Act.

Results of 1983 survey of primates

- 26 Old World primates were kept in private ownership.
- 51 New World primates were kept in private ownership.

⁶⁴ Mearns, C.S. & Barzdo, J. (1981) A survey of the Dangerous Wild Animals Act application. *Rate!* **8(2)**: 12-27

⁶⁵ From Economic History Services website "How Much is That Worth Today?" www.eh.net/ehresources/howmuch/poundg.php comparing prices in 1980 to those in 2000

1989 Survey

A survey was carried out jointly by the Department of the Environment and MAFF as part of a consultation process working towards a further review of the Schedule and the working of the Act. A letter was sent out to 522 local authorities in Britain, requesting information on licences granted to keep DWAs in 1988.

The results reported from this survey vary. A paper by Simon Baker⁶⁶ (the researcher responsible for compiling the information) states that a response rate of 76% was achieved from local authorities, and records a total of 726 animals being held under 177 licences. In contrast to this, a summary of the survey⁶⁷ has been archived by DETR, complete with a breakdown of the species recorded, which shows a total of 851 animals, held under 318 licences.

Both reports agree on the trends of the findings, although the number of licences reported to be held in 1988 varies significantly. Notably, New World monkeys, particularly squirrel monkeys, were the most frequently kept animals. Of the carnivore family, raccoons and coatis were the most popular. From the summary of the survey showing which species were kept, it is important to note that in 1988 there were only 38 wild boar licensed, and there were **no** licensed ostriches. The increase in total numbers over the 1980 survey may simply reflect the inclusion of many more species by the 1984 Modification Order.

Summary of Chapter 4					
Summary of animals held under licence at previous reviews:					
Year	Primates	Reptiles	Carnivores	Inverts.	NOTES
1976	19	29	31	1	"In-house" survey by RSPCA, included non-scheduled animals Survey sent by ABWAK, completed by 89% of local authorities Survey by RSPCA sent to local authorities. *Also recorded 51 New World monkeys being kept (not on 1981 Schedule)
1980	32	33	111		
1983	26*				
1989	392	37	155	70	Other families of animals were also being kept under licence at this time - see Annex 5

5. Licensed dangerous wild animals in England and Wales, 2000

Introduction and methodology

There is no central register in place to record the number of DWA licences granted in the UK, or the number of animals to which they relate. Such information is crucial before any sort of assessment can be made on how the Act is functioning. In order to obtain this important information, a questionnaire was sent by the authors to all 410 local authorities in England and Wales, in October 2000 (see Annex 1). The questionnaire was by design very simple, usually

⁶⁶ Baker, Simon, J. Undated. Escaped Exotic Mammals in Britain. ADAS Central Science Laboratory

⁶⁷ See Annex 5

requiring no more than a tick-box answer. Advertising the review and the questionnaire on the Chartered Institute of Environmental Health's e-mail list, EHCnet, encouraged a good response. This list is sent weekly to all Principal Environmental Health Officers with access to e-mail. Where LAs indicated that they had been involved with prosecutions or seizures, a follow up call was made by telephone to request further details. Once the deadline for returning completed questionnaires had been reached, all LAs which had not replied or who had supplied incomplete information were reminded at least once by telephone or fax. A reminder was also sent out on the EHCnet list.

Once the initial responses had been received, follow-up interviews were carried out with private keepers and local authorities and a subsequent survey was sent to a proportion of inspecting veterinary surgeons. Follow-up interviews with local authorities did not reveal much further information beyond that provided by the original questionnaire, and were abandoned due to their time consuming nature. Private keepers were contacted in writing via their licensing authority. We had a limited response to these letters requesting information on the Act from licence holders, however those that did respond (plus our own clients holding DWA licences) were contacted by telephone and interviewed. Responses received from this follow-up communication have been incorporated into this report at appropriate points.

Results

Total response

The response to the questionnaire was 94.6 % (388 out of 410 LAs responded). Three hundred and seventy five DWA licences were issued by 205 LAs (52.8%) in England and Wales in 2000, for a total of 11,878⁶⁸ animals. Figures indicated below are based on the number of respondents answering each question. Where any question was not answered by a respondent, that local authority was not included when calculating the results.

Local authority experience with the Act

Seventy six per cent (270) of responding council officers stated that they have had direct experience with the DWAA.

Twenty per cent (72) stated that although familiar with the Act, they had no direct experience of the Act.

Four per cent (14) stated that they were not familiar with the workings of the Act.

Licences issued

One hundred and eighty three local authorities did not issue any DWA licences in 2000.

Two hundred and five local authorities issued at least one DWA licence in 2000.

Of these:

- 109 LAs issued 1 licence
- 52 LAs issued 2 licences
- 26 LAs issued 3 licences
- 12 LAs issued 4 licences
- 2 LAs issued 5 licences
- 4 LAs issued more than 5 licences

⁶⁸ Some licences did not specify the number of animals. Animals held under such licences have **not** been included in the total number of animals for the purpose of this survey. Fewer animals may actually be held than are listed on a licence, as allowance may have been made for breeding

A summary of the kinds of animals licensed is appended (Annex 4).

Whilst we did not achieve a 100% response rate from LAs, and there is a chance that a few further licences may have been granted during 2000 after the survey had been returned, we feel that the results give an accurate representation of the licences granted in 2000. As the DWAA specifies a calendar year licensing system, most licences would have been granted in the early part of the year. New licences are unlikely to be requested in October, November or December, as the full fee would still be payable for a licence which would expire on 31 December of the same year.

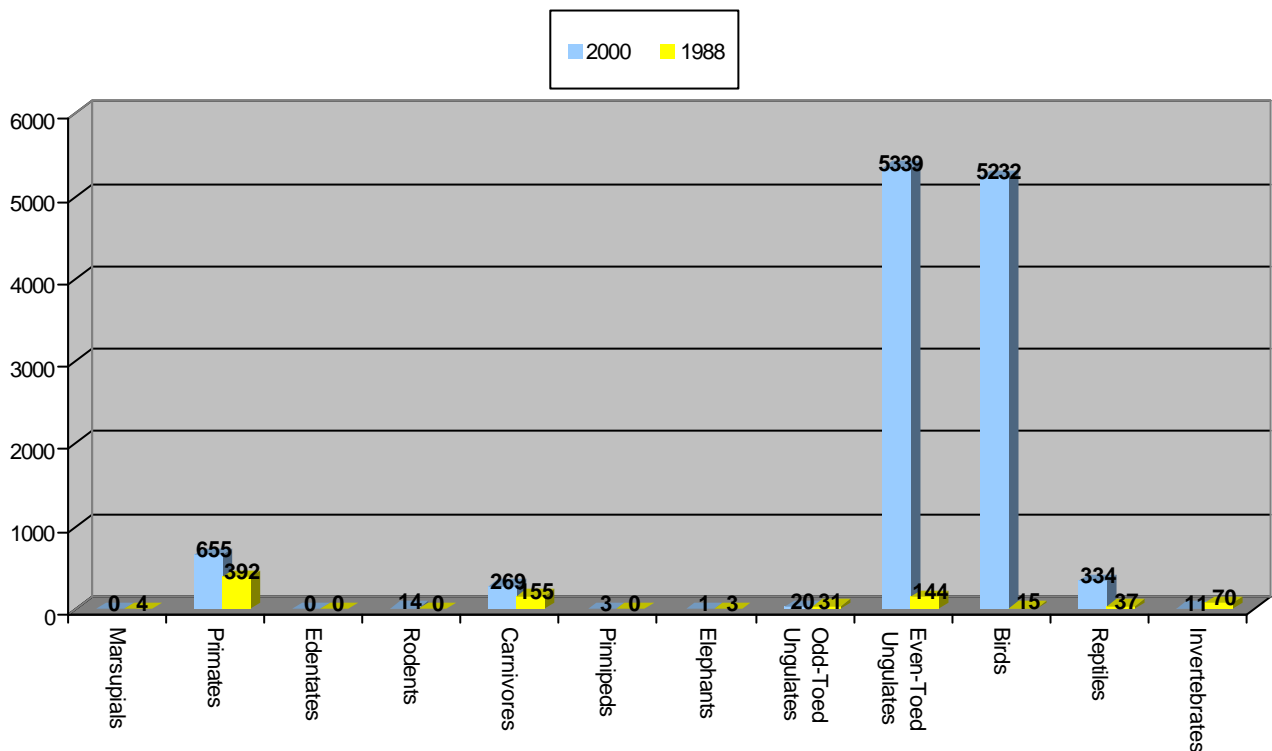


Figure 1. Chart to show DWAs kept in 1988 and 2000

Figure 1 shows that present numbers and kinds of DWAs being kept have altered significantly from 1988, when a total of 851 DWAs were kept, to 2000 when 11,878 DWAs were kept (even though Scotland was not included in the 2000 survey). In 1988 primates were clearly the most frequently licensed DWAs, followed by carnivores, even-toed ungulates and invertebrates. By 2000, there had been a huge increase in numbers, but almost 89% (10,555) of all licensed DWAs were farmed species (wild boar, ostrich, guanaco, emu and bison). In 1988 there were 38 licensed wild boar and no ostriches; by 2000 there were 4554 wild boar and 4769 ostriches! When the figures from the 2000 survey are considered, excluding the farmed species, the trend is similar to that in 1988; however, net of the farmed species recorded in 2000, there has been an increase in numbers of 597 animals. Primates followed by carnivores were the most frequently licensed animals; third most popular in 2000 were venomous snakes.

Applications refused

Twenty nine local authorities indicated that they had refused a licence to keep DWAs in the last 5 years, although some of these refusals were following informal discussion rather than the submission of an application.

Three hundred and twenty five local authorities have not refused a licence in the last 5 years.

Seizures and prosecutions

This question included both actual and intended prosecutions and seizures.

Seventy nine local authorities indicated that they had either taken or intended taking legal action under the Act.

Two hundred and seventy seven have not taken or considered legal action under the DWAA.

Legal action taken under the DWAA is considered further in Chapter 8.

Circuses and performing animals

Two hundred and seventy seven local authorities have never had any experience with circuses, nor registered individuals under the Performing Animals (Regulation) Act 1925.

Forty local authorities have had experience of circuses in their area.

Twenty six local authorities have registered individuals under the Performing Animals Act.

Pet shop licences and dangerous wild animals

Forty nine per cent (189) of local authorities include conditions on their pet shop licences to regulate the sale of DWAs.

Thirty six per cent (138) of local authorities do not impose conditions on the sale of DWAs.

(Sixty one LAs did not respond to this question, or only apply conditions in certain circumstances)

Copies of licences

One hundred and fifty nine local authorities provided us with a copy of DWAA licences issued by them.

Fees charged by local authorities

One hundred and eighty local authorities gave an indication of fees. This was either entered by the respondent on the questionnaire, or was taken from a copy licence if provided. The way the licence fees are calculated varies between the local authorities. Most LAs charge a flat fee, either including or excluding vet fees. Some LAs however, have developed a tiered system, charging more for an initial licence than a “renewal” licence⁶⁹, or charging more to license a large collection of animals than they charge for an individual animal. We are also aware of LAs providing a reduced fee to animal rescue facilities.

⁶⁹ Although subsequent licences are often referred to as “renewals”, strictly speaking the DWAA requires a new licence to be granted each year

The fees recorded in this survey have been considered in 3 groups: all responding LAs, LAs that have indicated whether vets' fees are included, and LAs that have not indicated whether their fees include or exclude vets' fees.

Average fee charged (all LAs, n=180)	£131.05
Average fee excluding vets' fees (n=62)	£102.63
Average fee including vets' fees (n=3)	£119.00
Average fee where vets' fees not specified (n=115)	£146.69

It seems from these fees that on average an applicant might expect a total fee of between £100 and £150 for annual licensing. However, our survey also revealed that the lowest fee charged was £25 plus vets' fees (South Cambridgeshire District Council) and the highest fee charged was £525 (Ashfield District Council).

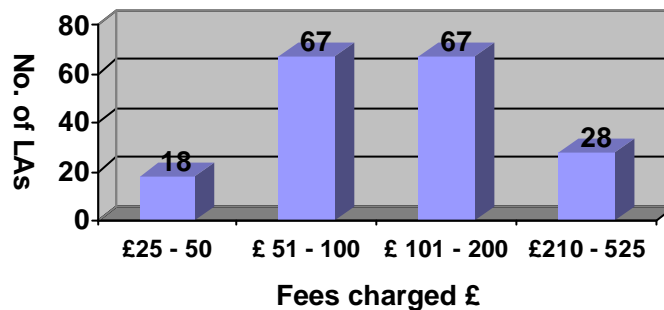


Figure 2. Chart to show the distribution of fees charged by LAs in 2000

Summary of Chapter 5

- 375 DWA licences were granted in 2000
- 11,878+ animals are currently licensed to be held under DWA licence in England and Wales
- 4554 of these animals are wild boar
- 4769 of these animals are ostriches
- 660 of these animals are camelids
- 655 of these animals are primates
- 269 of these are carnivores
- 334 of these are venomous reptiles
- 22% of local authorities have taken or considered taking legal action under the Act.
- The average fee charged for a DWA licence in 2000 was £131.05
- The maximum fee recorded was £525.00
- The minimum fee recorded was £25.00
- There is no central register of licences, and therefore no information available to government on the numbers of DWAs being held in the UK.

6. Responses to the consultation process

In addition to the survey, a wide number of interested organisations and individuals were consulted either by letter, telephone or in person as a part of this review. The comments we received have been categorised into groups depending on the views they represent. Comments were received on the issues of circus winter quarters, farmed species, and the Schedule to the Act; however these are not included here as these subjects are dealt with specifically in later Chapters of this report. A full list of consultees invited to comment has been appended in Annex 2 (excluding private keepers, local authorities and individual vets).

Local authorities

Comments below are compiled from responses received from individual local authorities and the Chartered Institute of Environmental Health (CIEH). As local authorities are responsible for the administration of the Act, we feel that the comments below are of great importance.

The main point raised by 14 local authorities on the administration of the Act was their perceived need for specific powers of entry where an animal is suspected to be kept without a licence. Twelve local authorities have indicated their suspicion that there are unlicensed animals in their respective areas, but do not feel that they have the powers necessary to enforce the Act.

Guidance on various aspects of the Act has been requested. Local authorities feel it would be helpful to have guidance on the standard requirements of common species of animals held under the Act, on how to initiate legal proceedings, and on the issue of hybrid animals. Training on the DWAA for enforcing officers, including identification of the scheduled species would also be welcomed. However, one local authority commented that standard conditions for species would restrict an officer's interpretation of the Act. Where DWAA enforcement is the responsibility of the Licensing rather than the Environmental Health Department, we have been advised that the DWAA is a very small part of their duties, and as such, may not warrant extra training.

Eight local authorities have commented on the use of experienced veterinary surgeons for inspection. Seven authorities would like to see a list of vets, similar to the list of veterinary zoo inspectors provided under the Zoo Licensing Act 1981. Local authorities have indicated that they have had difficulty in finding a vet with suitable experience, or even willing, to perform inspections for some species.

The sale of DWAs is also an issue that LAs feel needs addressing. Since LAs also have powers under the Pet Animals Act 1951 to grant pet shop licences, some have chosen to restrict the sale of DWAs by placing conditions on these licences⁷⁰. Such conditions may prohibit their sale completely, or require the sale of scheduled animals to be allowed only where the purchaser has produced a DWA licence. They would also require that the LA be informed of the purchaser's name and address in the event of a sale. Seven local authorities feel that pet shops should not be exempted from the Act, particularly if pet shops are stocking DWAs as visitor attractions rather than offering them for sale.

Four local authorities have indicated to us that they would support a nationally set fee for DWA licences if one were to be introduced, as it is accepted that the fee is a major reason for non-compliance with the Act.

We have also received suggestions that the Act requires publicity to inform members of the public about the requirements needed to obtain a licence, and the animal types scheduled.

⁷⁰ See also comments made by animal welfare organisations in this Chapter

Other comments from local authorities include the following: that the "72 hour rule"⁷¹ be amended to require the licensing authority to give 72 hours **notice** if the animal is to be moved into another authority's area; that some species should be banned outright in certain domestic situations; that the administration of the Act should be transferred to a national body such as DETR or MAFF (now DEFRA); that a national register of licences granted should be centrally maintained; and that an amnesty would be a way to encourage compliance.

Fourteen submissions were made on amendments to the Schedule, which have been addressed in Chapter 17.

Summary: Local authorities would like

- Powers of entry to inspect premises where an offence is suspected
- Guidance on standard conditions, training etc.
- List of experienced vets to use for inspections
- No exemption for pet shops
- Restriction on sale of DWAs to licence holders only
- To be given 72 hours notice of any movement of a DWA
- Review of the 1984 Schedule

Private keepers

The views of twenty individuals keeping dangerous wild (pet) animals were obtained. In the majority of cases, keepers were contacted by telephone once they had given permission to be interviewed. Despite our best efforts, we were unable to interview anyone keeping a DWA without a licence. All the responses were so similar that we felt it unnecessary to pursue further private keepers.

It is accepted by some individual keepers that the Act is necessary for some animal types, and two respondents felt that the Act also offers much needed protection to animal welfare.

The majority of respondents believe that the fees charged by LAs for DWA licences are too high. Keepers want a reduced fee, and feel very frustrated about the wide range of fees being charged by the different councils. A set national fee would be seen to be a fairer system. This subject is discussed in Chapter 16 of this report.

It is also felt that it can be very difficult to obtain a licence. Private keepers would like to see a more streamlined application process with standardised conditions applied nationally.

Three respondents feel that there is significant non-compliance with the Act amongst pet owners.

Four respondents felt that the veterinary surgeon selected should be experienced with the species they are required to inspect. One respondent in particular was appalled by the lack of knowledge possessed by the inspecting vet, both of the species involved and of the Act in general. Two respondents felt that an annual veterinary visit was too frequent and unnecessary.

Three individuals keeping DWAs as pets made representations about the listing of species on the Schedule. These have been addressed in Chapter 17.

⁷¹ DWAA Section 1 (8)

Summary: Private keepers feel that

- Fees are too high and it is difficult to obtain a licence
- There should be a set national fee
- Conditions required by local authorities should be standardised
- Act is necessary for some types of animals
- There is significant non-compliance with the Act
- Experienced veterinary surgeons should perform inspections
- Schedule needs updating

Veterinary surgeons

Comments were received from 15 individual veterinary surgeons that have conducted DWAA inspections on behalf of local authorities. Also included in this section are comments from the British Veterinary Zoological Society (BVZS).

Vets noted that local authorities differ widely in their implementation of the Act and the scale of fees charged. They suggested that a set rate of fees be established for all inspecting vets and a standardised inspection form be produced to ensure that all inspections are performed in a uniform manner. They pointed out that local authorities should remain responsible for the veterinary surgeon's fees, and such fees should be incorporated into the total fee. The position where a veterinary surgeon must pursue fees for services provided on another's behalf was felt to be unsatisfactory.

Respondents, particularly those affiliated with the BVZS, suggest incorporating categories 1 and 2 of the Dangerous Animal Categorisation⁷² developed for the Zoo Licensing Act (ZLA) into the DWAA Schedule, in the belief that this would standardise procedures between the two Acts, and would save confusion or disputes in law. Other submissions on the Schedule have been considered in Chapter 17.

In the opinion of BVZS members and other respondents, only vets with a particular knowledge or specialism in the species proposed should be used to perform at least the initial inspection. A panel of vets with such experience could be developed similar to the panel of vets listed as zoo inspectors under the ZLA, and this would be welcomed. Some vets believe that the requirement for an annual veterinary inspection is excessive, unless there is a change in circumstances or the collection is large.

It is felt that there should be some restriction placed on the sale of DWAs through pet shops, and that pet shops should not be exempted from the Act.

One comment was received on the welfare requirements specified in the Act for the animals. It was suggested that an additional requirement for environmental enrichment be included in Section 1 (3) along with the other specifications on the provision of food, drink, and adequate exercise.

Summary: Veterinary surgeons recommend

- There should be a requirement or recommendation to use vets experienced with the animals involved, at less frequent intervals
- There should be a set rate of fees for veterinary inspections performed under the Act.
- There should be a standard inspection form for vets
- The 1984 Schedule should be updated, with reference to the Dangerous Animal Categorisation developed for the ZLA.

⁷² DETR (2000) Chapter 12. Secretary of State's Standards of Modern Zoo Practice

Pet trade

We have received a comprehensive submission from the Pet Care Trust, an organisation representing 1500 members, of which 839 are indicated on the organisation's website to be "retailers". We have also directly consulted specialist reptile traders.

Representatives from the pet trade believe that there is mass non-compliance with the DWAA (although they cannot provide evidence to prove these claims). They would like to see the licensing system become more of a registration scheme with very low fees of around £25. The fee charged should be standardised nationally.

Written standards of care and guidelines for enforcement should be produced, and would be welcomed, as would policies in the event of an escape of a scheduled animal.

It has been suggested that a designated department should be appointed within a local authority to deal with the DWAA. Environmental Health would be the department of choice, as it is likely to already deal with animal related legislation, and to have officers with a better understanding of the issues involved⁷³.

Numerous submissions have been made by private keepers and individuals with experience in the pet trade to alter the 1984 Schedule, specifically the removal of species not believed to be dangerous. A definition of "dangerous" has been requested. It is believed that animals should not be included on the Schedule purely for animal welfare reasons.

No mention was made of the exemption of pet shops from the DWAA.

Summary: Pet trade

- Believe there is mass non-compliance with the Act
- Want very low national fee for licences
- Would like written standards of care for scheduled species
- Would like a designated department to deal with the Act within LAs
- Would like the 1984 Schedule to be updated

Animal welfare organisations

The comments below are compiled from consultation with animal welfare organisations including the RSPCA, International Primate Protection League (IPPL), Reptile Trust, and also include comments from the Shaldon Wildlife Trust (a zoo).

All organisations would support a review of the Schedule, and all would like to see certain species added to it. The RSPCA has indicated that it would be very concerned about any proposals to remove animals from the existing Schedule. The Reptile Trust would like to see a registration scheme for large constrictor snakes.

The sale of DWAs is also an area that animal welfare organisations would like to see regulated. They believe that the exemption made for pet shops in the Act should be revoked. Currently, the RSPCA is encouraging the regulation of sale of DWAs by recommending that conditions be put on licences granted to pet shops under the Pet Animals Act 1951. Such conditions have been encouraged by a recent circular sent to all LAs in England and Wales by the RSPCA as a part of

⁷³ In our experience, local authorities have in some cases administered the Act through licensing or trading standards departments, neither of which may have the knowledge nor the interest in animal issues

the organisation's annual exotic animals campaign⁷⁴, and are recommended in the Local Government Association's Model Conditions for Pet Shop Licences⁷⁵.

Model standard conditions for DWAA licences were put forward, including conditions suggested by the RSPCA, as follows:

"In the event of a sale or disposal, the Licensee shall immediately notify the Authority of the sale or disposal and inform the Authority of the name and address of the person to whom the animal was sold or disposed"

"In the event of the escape of an animal kept under the authority of this Licence the Licensee shall forthwith notify the Police and the Licensing Authority"

"The Licensee shall at all time maintain a record of breeding so that all offspring are accounted for"

Greater powers of entry for local authorities are felt to be required, as well as a central record of all DWAs held in the UK. It is thought that local authorities require improved guidance on the implementation of the Act. Three of the responding organisations indicated that they would like a panel of specialist vets from which LAs may appoint inspectors.

It has been suggested that the Schedule of animals should be split into categories [e.g. pet animals, farmed animals, seriously dangerous animals such as lions and tigers] which would relate to the costs of the licence and the frequency of visits, to discourage non-compliance from pet owners on the grounds of cost and inconvenience.

IPPL suggests that all licences should be approved by a centralised inspectorate, primarily made up from members of the zoo community, and would like to see potential licence holders questioned on the ecology and requirements of the species to determine their "suitability" to hold a licence.

Summary: Animal welfare organisations

- The Schedule requires updating, however any subtractions would cause concern
- The sale of DWAs needs to be legally regulated
- Standard conditions need to be formulated to apply to all licences
- LAs require greater powers of entry, and guidance from DETR
- A central record of DWAs held under licence should be maintained
- Specialist vets should be consulted prior to licences being issued

Animal keeping organisations

There has been a substantial response to this review from private animal keeping organisations. The responses below are compiled from comprehensive and strongly worded representations from the National Association of Private Animal Keepers (NAPAK), the British Herpetological Society (BHS) and the International Herpetological Society (IHS).

All organisations cite mass non-compliance, both among their respective members and by DWA keepers in general. The Act is seen to be "grossly unfair, unscientific and unworkable", largely due to the fact that the Schedule is thought to include animals believed to be not at all dangerous and listed purely for welfare reasons. Comments on specific changes requested by these organisations have been covered in Chapter 17 of this report.

⁷⁴ Tran, J. (2001) Circular letter to Chief Environmental Health Officers on the sale and ownership of exotic species and dangerous wild animals. RSPCA exotics campaign

⁷⁵ Local Government Association (1999) Newly revised guidance and model licence conditions for pet shops. LGA, London

Other reasons suggested for non-compliance include inconsistent and at times punitive fees charged by LAs, unfair administration of the Act, and the limited consequences of licence evasion. It has been suggested that a *status quo* has been reached, whereby keepers only license those animals thought to be truly dangerous. Animals not considered to be dangerous are not licensed which, although against the law, is widely practised, accepted and generally ignored.

We have been informed by individual keepers that a major reason for non-compliance among other venomous snake keepers is that if they apply for a licence and it is refused, they have then aroused suspicion and exposed themselves to legal entry and inspection by the local authority. Animal keeping organisations want there to be a reasonable expectation that a licence **will** be granted by a local authority if specified conditions of care are met, unless there are exceptional circumstances. To this end, they believe that firm guidance should be provided to local authorities, and that standard conditions of care be developed for scheduled animals, or that the Act be centrally administered in a uniform way by DETR.

A national scale of fees is also requested, ideally as a set or capped fee. A figure of £75 - £100 per year has been suggested to be a reasonable amount to be paid annually.

At the present time, the responding animal keeping organisations require their members to comply with UK law. However, one organisation excludes the DWAA from this requirement, on the grounds that the Schedule has no scientific basis and is not supported by that organisation. In addition, organisations plan to advise members to appeal against any additions to the Schedule resulting from this review under the Human Rights Act⁷⁶.

It is believed by these organisations that any offence under the DWAA tends to be viewed by magistrates as "a failure to complete paperwork" rather than a serious offence, and that the fines imposed support this view.

Summary: Animal keeping organisations

- All organisations believe that there is mass non-compliance with the DWAA
- The Schedule is believed to be "grossly unfair" and lists some animals on welfare reasons alone
- Some local authorities administer the Act unfairly and/or charge punitive costs
- Offences under the Act are seen not to be treated seriously by Magistrates
- All organisations would like certain types of animals removed from the Schedule, and would strongly oppose any additions

Other comments

ANIMAL RECEPTION CENTRE, HEATHROW AIRPORT, LONDON.

During our meeting with officials at the Animal Reception Centre to research importation, comments were made on the administration of the Act which we include here. Submissions were also made on the Schedule, which are considered in Chapter 17.

- They believe that the main problem with the DWAA is overcharging, which drives the keeping of scheduled animals "underground". A restriction on the sale of animals may ease the problem.
- As experienced handlers of scheduled species, in their opinion an expert should be required to perform inspections under the Act, although this does not necessarily need to be a vet.
- ARC have provided training in animal handling to local authorities.

⁷⁶ See Chapter 15 for further comment

WILDLIFE LIAISON OFFICER

Although not necessarily the views of the police force by which the respondent is employed, we have had the following submission based on an officer's experience with the Act.

- There is a need for cheaper licence fees, and there should be a right to assume that a licence will be granted. It should be made easier to apply for a licence.
- Unlicensed animals are not covered by insurance, therefore there may be no redress if an unlicensed animal were to injure a person. It would be better to know where all the DWAs are, rather than have a licensing system which is evaded by many keepers, to prevent unexpected risks to the public and emergency services.
- The Schedule of DWAs should only cover dangerous animals [rather than animals scheduled for welfare reasons]. Local authorities could not cope with the volume of applications were constricting snakes to be added or all the unlicensed small mammal keepers suddenly to apply.

SCHOOL OF BIOLOGICAL SCIENCE, UNIVERSITY OF WALES

Comments on the taxonomy of the Schedule were provided, which are discussed in Chapter 17. In addition, the following comments were made:

- The implementation, costs and conditions of the DWAA are at the discretion of the LA. Decisions are therefore based on an officer's personal attitude, which is often preconceived in the case of venomous snakes.
- Applicants should be able to expect to be licensed provided agreed standard conditions have been complied with.

Summary of Chapter 6

Four main areas have been highlighted which, in the opinion of the consultees above, need to be addressed. These are that:

- The 1984 (Modification) Order is in need of review;
- The scale of fees needs regulating;
- Standard guidance should be provided to local authorities on the conditions required by scheduled species;
- Only veterinary surgeons experienced with the animals they are to inspect should be used by local authorities.

7. Licensing and enforcement

Licensing procedure

Within a local authority, administration of the Act is normally the responsibility of Environmental Health Officers; however we are also aware of the Act being administered by Dog Wardens, Trading Standards Officers and Licensing Officers.

In response to our questionnaire, we received a number of comments from local authorities on the enforcement of the DWAA. From copies of the licences provided by local authorities, we have also recognised a number of errors made by local authorities when administering the Act.

Following interviews with a selection of local authorities, we have been able to establish the usual application process, which is recorded below.

Once an interested individual contacts the local authority, an application form is sent out, usually following an informal discussion with the enforcing officer about the proposed situation.

Application forms vary widely between authorities, from a basic form requesting information on the applicant's contact details and the proposed types of animals, to more comprehensive forms requiring details on size and type of accommodation proposed, food items they intend to offer, and whether they intend breeding the animals. Most application forms have a declaration which must be signed by the applicant to certify that they have not been disqualified from keeping a DWA under the DWAA⁷⁷. Additionally many LAs request details on other animal related convictions⁷⁸, which may affect whether or not the LA decides to grant a licence, either because a court has disqualified a person from keeping DWAs or because the applicant cannot be deemed a "suitable person"⁷⁹. It seems that in practice LAs must rely on an applicant's declaration or local knowledge to determine whether such convictions or disqualifications have been made, as they have no access to a central register of convictions.

Once the council has received the application form and fee, an inspection date is set, and the inspection is usually carried out by a council officer and veterinary surgeon appointed by the council. In the majority of LAs, the appointed officer (usually an Environmental Health Officer) has delegated powers to grant a licence based on the inspecting veterinary surgeon's report. If an inspector's report recommends a licence is not granted then a decision may be reached either by the appointed officer, by committee within the department or by referral to a subcommittee of the elected members of the Council.

Most councils have a system to check up on application forms requested and not submitted. If no submission is forthcoming, they make a follow-up call to discover the reason why. Similarly, if a licence lapses, an inspection will be made by a council officer to ensure that no DWAs are being kept without a licence.

The majority of LAs that responded to our questionnaire seem to be administering licences in accordance with the Act. One LA does not issue licences on a calendar year basis.

On a number of occasions, we have been provided with a copy licence that does not state the number of individual animals that may be held. Section 1 (2) (a) of the DWAA clearly requires that the licence must specify both the species and the number of animals of each species to be kept. From the responses we have had, LAs seem to omit the numbers of animals covered by licence only in certain circumstances, e.g. where animals are farmed and the numbers constantly change, where a large collection of animals is held, or where the licensee is an animal dealer. The inflexibility of Section 1 of the Act makes licensing farms in particular very difficult. In such cases, many LAs have opted to specify a maximum number of animals to be held, rather than require notification every time the number of animals changes.

It has been suggested by one local authority (and others) that the Act should be administered not by local government, but by a national body such as DETR or MAFF (now merged to form DEFRA). Whilst this may offer a more standardised approach to licensing, we have been advised that local knowledge is extremely important when determining whether or not a licence should be granted. Certainly knowledge about animal-related convictions and the population of the area in which the applicant lives is relevant to an application, and this information would not be easily obtained by a remote administrator without involving local officers.

Licensing conditions

Local authorities' approach to the DWAA varies. The majority of local authorities issue a standard licence with minimum conditions specified in Section 1(6)(a)(ii-v), similar to the following:

1. While any animal is being kept under the authority of the Licence:

⁷⁷ DWAA Section 1 (2) (d)

⁷⁸ DWAA Section 6 (2)

⁷⁹ DWAA Section 1 (3) (b)

- (i) the animal shall be kept by no person other than the person or persons specified above;
 - (ii) the animal shall normally be held at such premises as are specified above;
 - (iii) the animal shall not be removed from those premises, unless the circumstances in which the animal may be removed are set out in the Schedule of Conditions attached;
 - (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, the terms of such policy being satisfactory in the opinion of the Authority.
2. The species and number of animals of each species that may be kept under the authority of the Licence shall be restricted to those specified in the Schedule attached.
 3. 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.

Local authorities licensing farmed species (ostriches and wild boar in particular) or collections of animals that are moved regularly (for filming purposes etc.), often provide a comprehensive list of additional conditions specific to the type, use and numbers of animals kept.

Chiltern District Council and Huntingdonshire District Council have introduced an additional condition which requires the licensee to notify the local authority in the event of the death of an animal and allow for the inspection of that animal by the local authority (or provide a veterinary death certificate). Ashford Borough Council has included a "no breeding clause" as a condition on one of their licences. North Wiltshire council has included a condition forbidding the transfer or sale of DWAs to unlicensed keepers. Such additional conditions are provided for by Section 1(7).

A number of local authorities⁸⁰ and private owners have commented that they would like a standardised national set of conditions (standards of care) for at least the more commonly kept species.

There have been a small number of instances where it seems that, by their licensing conditions, local authorities have acted outside the powers provided by the Act. Notably, two local authorities^{81,82} allow DWAs to be handled outside of a secure enclosure (contrary to Section 1 (3) (c) of the DWAA). We are aware of at least three licensed collections allowing access to or viewing of the animals by the public. Although this does not contravene the DWAA *per se*, it may have implications under the Zoo Licensing Act 1981.

Other licensing issues

One local authority has granted a DWAA licence to a large television company which does not own animals, with the intention of licensing animals used in their studios. Section 1 (4) of the DWAA states that licences may only be issued to the person who "both owns and possesses" the animal concerned, except in exceptional circumstances. Guidance is not given in the Act as to which circumstances could be classed as "exceptional", however guidance issued by the Home Office⁸³ suggests that this subsection was included to ensure that the licence was issued to the

⁸⁰ Hinkley & Bosworth Council, Bury Metropolitan Borough Council, Horsham District Council, Thurrock Borough Council, Mid Sussex District Council

⁸¹ West Berkshire District Council

⁸² Huntingdonshire District Council

⁸³ Home Office Circular No. 112/1976 Dangerous Wild Animals Act 1976

person "most likely to have effective control over the animal". This is clearly not the case for the company in question. In addition, Section 1 (2) (a) states that the licence must specify the numbers and types of animals held. Again, for such a company this would be impossible. In our opinion, the local authority acted outside the provisions of the Act in granting a licence under these circumstances.

In the case of corporate-owned animals we feel that, in addition to the person directly responsible for the animals welfare and security, the directors of the company should be held liable if an offence is committed. This is included as a provision in other animal welfare legislation.

Licence enquiries

We have found, in carrying out our survey, that local authorities (other than the officer personally involved) often have very little knowledge of the DWAA. When telephone calls were made to local authorities, either to remind them to reply or to follow up replies from the questionnaire, many council switchboard operators did not know which department dealt with the Act. In one case, after being transferred to the Council's helpdesk, we were informed that Dangerous Wild Animal licences were not issued by the Council, but by the Environment Agency! In most cases, there was only one person within the Council who had sufficient knowledge about the Act to deal with enquiries. Making enquiries about the DWAA is therefore likely to be difficult for the general public.

Licence fees

As mentioned in Chapter 3, the fees charged by local authorities for a DWAA licence have been subject to controversy. Many respondents cite high licence fees as a major reason for non-compliance, and they believe that many LAs charge prohibitive fees to effectively ban the keeping of DWAs

Under the DWAA, the fee charged must be, in the authority's opinion "...sufficient to meet the direct and indirect costs which it may incur as a result of the application"⁸⁴. From our survey, the average fee charged was £131.05. The lowest fee charged was £25 plus vets' fees and the highest fee charged £525. When we carried out a similar review of fees charged for DWA licences in 1999⁸⁵, we were informed of one local authority charging £1000, which the council openly admitted was meant to be prohibitive. Although we have not investigated the true cost of the administration and other costs involved in granting a licence, it would seem that some local authorities are charging a fee that exceeds their own costs. This may be to gain profit from the licensing process, or to discourage the keeping of DWAs. In either case, charging an excessively high fee is unlawful under the Act.

Very few local authorities calculate their fees on a case-by-case basis, taking into account the time and administrative costs involved. This is clearly the only way to be completely fair to all applicants, and to comply with the wording of the Act. However, we accept that LAs need to be able to quote an approximate fee when they receive enquiries and that a case-by-case system may require extra administration time and cost in order to grant a licence. Schemes that seem to have worked for some LAs include charging a high initial fee, then reducing subsequent charges; having a different fee depending on the numbers of animals kept; or having a reduced fee for charitable organisations.

One local authority (Stevenage Borough Council) has plans to trial a very low fee to encourage compliance with the Act, particularly from individuals already owning unlicensed animals. The

⁸⁴ DWAA, Section 1 (2) (e)

⁸⁵ Cusdin, P.A. & Greenwood, A.G. (1999) *The Keeping of Wolf Hybrids in Great Britain* DETR/RSPCA Unpublished

proposed fee is £25, significantly lower than most other authorities' fees, but they believe that this covers the costs incurred by the council. The reduced fee will be introduced from April 2001⁸⁶.

Neighbouring local authorities may charge widely differing fees, and opponents claim that this makes the licensing system a "postcode lottery". The subject of fees charged was the basis of Parliamentary Questions in 1985 and 1986, and was discussed on a number of occasions as the Bill progressed through Parliament⁸⁷. Although some licensing or other regulatory systems administered by local authorities do have set national fees⁸⁸, LAs have a duty to recover their full costs under the DWAA, which will be variable based on the amount of work required.

Submissions from various respondents including private owners and animal keeping organisations, have called for a national set fee or a maximum fee, which they propose to be £75 to £100.

Animal welfare groups are likely to oppose a lowered licence fee, as the fee is seen to discourage people from keeping scheduled animals. It seems more likely, however, that it may discourage them from **licensing** rather than keeping them.

Enforcement of the DWAA - powers of entry

It seems from the response of LAs, and our own experience, that LAs are unclear as to the powers of entry and seizure provided under the DWAA. Twelve local authorities indicated in their response to our survey that they felt that an unambiguous power of entry should be provided to local authorities where they suspect a dangerous wild animal is being kept in contravention of the Act.

Our interpretation of the powers of entry provided under the Act is as follows:

A person who keeps a dangerous wild animal without the authority of a licence is doing so contrary to section 1(1) of the Act. In such circumstances, the relevant local authority is indisputably empowered under section 4(1) to seize the relevant animal. It is less clear whether the authority has a right of entry to premises in order to execute such a seizure. This is in contrast to the situation where a licence has already been granted, or an application for a licence has been submitted, where there is an express power of entry and inspection under section 3 and, further, it is specified to be an offence wilfully to obstruct or delay any person in the exercise of such powers.

It is ultimately for the courts to determine the extent of a local authority's powers under section 4. If called upon to decide the issue, it is possible that a court may consider the fact that Parliament had provided a local authority with an express power of entry and inspection under section 3, but not under section 4, as indicating that it did not intend such powers to be available in the latter situation. The court may give particular weight to the fact that such a power could involve entry to a person's dwelling, and take the view that it should be available only if expressly provided for by Parliament.

Alternatively, the court might decide that the nature of section 4 is such that it must include an implied power of entry. We contend that this is the correct view. If it were otherwise, the effectiveness of the statutory licensing regime would be seriously undermined because, in a situation where a person was in contravention of the legislation by keeping a dangerous wild animal without having been granted a licence, the local authority could only seize the animal if the owner or occupier of the relevant premises permitted entry. We consider that Parliament's use of the word "seize" in this context is significant, because it conveys a sense of the animal being removed by the authority, regardless of whether its keeper has given their consent. Furthermore, it would seem paradoxical to argue that those who disregard their responsibilities under the

⁸⁶ Woodward, Chris (2001) Stevenage Borough Council. Personal communication

⁸⁷ See Chapter 3

⁸⁸ For example Town and Country Planning Act 1990, Food Safety (General Food Hygiene) (Butcher's Shop) Amendment Regulations, 2000

legislation should be placed in a better position and enjoy greater protection from entry to their premises in comparison with those who had at least complied with its spirit by applying for a licence. Indeed, we would argue that it is inconceivable that Parliament intended that a person could effectively frustrate the policy underlying the Act - the promotion of public safety - by being able to prevent a local authority from entering premises where it was attempting to enforce the legislation by exercising its powers under section 4.

It is our view, therefore, to be effective, the power to seize and to dispose of animals under section 4 must incorporate an implied power of entry. Nevertheless, in the absence of authoritative guidance from the High Court, the position of local authorities under section 4 remains uncertain. Such a situation is clearly undesirable, and may well lead to authorities being reluctant to exercise their power under this section because of fears that they may be found to have acted unlawfully.

Even if we are correct in our view that a power of entry and inspection is inherent to section 4, we consider that the circumstances in which an authority can rely on it are very limited. In our judgement, the implied right of entry may only be exercised for the purpose of seizing an animal under section 4, and the power of seizure may be executed only, so far as it is relevant in the context of this discussion, where an animal is being kept contrary to section 1. At one level, this is common sense: an animal can only be seized if it is actually found on the premises ("is being kept there"), but it has the consequence that the implied power of entry can only be relied upon when an animal is actually seized. If a local authority gained entry to premises without the consent of the owner or occupier purporting to rely on the (presumed) implied power under section 4, but no seizure was executed (because no dangerous wild animal was being kept there at the time) then, on the basis of our interpretation of the provision, the authority would have gained entry unlawfully.

Accordingly, notwithstanding that there may be an implied power of entry under section 4, in our opinion it may be relied upon only where an animal "is being kept" at the premises contrary to section 1(1) and it is seized by the local authority. If this view is correct, the implied power of entry cannot be relied upon if no dangerous wild animal is seized, either because none had been kept there or, alternatively, the authority's suspicions were correct, but the animal had been removed prior to their arrival. This would mean that in order to rely on the implied power of entry, a local authority would need to be certain that an animal was actually present on the premises at the time it secured entry. If premises were entered without the consent of the owner or occupier but no animal was seized, it would not, in our opinion, be sufficient for an authority to argue that it acted on the basis of a reasonable suspicion that a dangerous wild animal was being kept there. Again, the uncertainty of the situation requires addressing: local authorities need to be given express and unambiguous powers in order that they may effectively enforce the provisions of the Act.

Similar problems with powers of entry have been experienced with other legislation, such as the Breeding of Dogs Act 1973, subsequently amended by the Breeding of Dogs Act 1991, which now allows LAs to inspect premises that are not covered by a licence. If a LA **suspects** that animals are being held unlawfully, under the amendment it can apply to a Magistrate's Court for a warrant to inspect outbuildings at the premises (although officers cannot enter a private dwelling). The Riding Establishments Act 1970 also provides LAs with powers of inspection. It is important to note that the above legislation also involves the inspection of outbuildings rather than a person's home. Certain types of DWAs would almost certainly be kept in the home rather than in an outside enclosure or outbuilding. This is principally a problem with reptiles. The Pet Animals Act s.7(1) does specifically include powers of inspection to a private dwelling.

Annual inspections and veterinary surgeons

A new DWAA licence must be granted each year. It is a requirement under the Act⁸⁹ that a veterinary surgeon must inspect the premises prior to a licence being granted. One local authority has informed us that they do not use a veterinary surgeon for the "renewal" of a licence that they

⁸⁹ DWAA, Section 1, subsection 5

have granted, as the Environmental Health Officer responsible believes that he is sufficiently knowledgeable about the species being held to perform such inspections himself. Whilst we do not doubt his proficiency, an inspection of premises **must** be carried out by a veterinary surgeon (or veterinary practitioner⁹⁰), and any variation from this requirement would be unlawful. Similarly, one licensee has negotiated 3 yearly veterinary visits from his council.

As the Act (Section 1(1)) requires a licence to be issued **before** a person acquires an animal, the local authority and veterinary inspections must take place prior to the licence being granted. This could result in the veterinary surgeon not actually seeing the animal in question for the first 12 months the licence is in force. One local authority has suggested an alternative to this situation by introducing a provisional licensing system, similar to that used for entertainment licences, with a full licence only being issued after a veterinary inspection with the animal in place. It would be up to the LA to consider whether it is necessary for the inspecting vet to actually see the animal in order that a licence can be granted, since the vet is there to assess the premises only and not necessarily the animal itself. This raises the question of why it is only veterinary surgeons, rather than other suitably experienced individuals, who may perform inspections.

The choice of veterinary surgeon used for the inspections has been commented on, both by local authorities and animal keepers. As discussed in Chapter 3, it was assumed by Parliament, rather than included as a specific requirement, that inspections would be carried out by a veterinary surgeon with experience in the species involved. Responses from local authorities and private keepers indicate that this is not always the case. Often, LAs have one vet who is consulted on all council matters where veterinary advice is required. Local authorities have indicated that it can be difficult to locate a local veterinary surgeon with relevant experience, and three LAs commented that they would like a list of approved vets, similar to that provided for in the Zoo Licensing Act. Only one LA has indicated that it uses a non-specialist vet to perform inspections on the specific grounds that it reduces the costs incurred by the applicant.

It is the view of many private keepers that inspections should be carried out only by suitably competent, experienced individuals (although not necessarily restricted to veterinary surgeons). Both private keepers and LAs feel that there are other non-veterinary individuals with sufficient knowledge to conduct an inspection and provide an appropriate report. Although not specified in the Act, it is also felt that an independent vet should carry out the inspection - not the applicant's own veterinary surgeon.

Comparative powers of entry and inspection

Riding Establishments Act 1964

S.2 (1) a LA can authorise inspection of

- (a) any premises where they have **reason to believe** a person is keeping a riding establishment (must be reasonable belief)
- (b) A licensed premises
- (c) Premises where a licence has been applied for

S.2 (3) Only vets chosen from a list of persons drawn up jointly by the Royal College of Veterinary Surgeons and British Veterinary Association can perform inspection

Performing Animals (Regulation) Act 1925

S.3(1) **Officer** of the LA and any constable may:

- (a) enter and inspect any premises and animals where performing animals are being trained or exhibited, or kept for that purpose (but not on or behind the stage during a performance)

⁹⁰ The title of "veterinary practitioner" was developed in response to the 1948 Veterinary Surgeons Act to enable individuals without the presently accepted veterinary degrees to continue practising in animal medicine. There are now only 10 veterinary practitioners still working in practice; these individuals are over 70 years of age

- (b) Require production of the certificate

Pet Animals Act 1951

S.4 Inspection of pet shops

(i) Officer of LA or vet can enter licensed premises. (No powers on suspicion to enter unlicensed premises)

Animal Boarding Establishments Act 1963 (dogs and cats only)

S.2 (i) LA officer or veterinary surgeon to inspect licensed premises. No general powers of entry for suspicion

Breeding of Dogs Act 1973

S.1 Inspection - LA can authorise in writing an officer of veterinary surgeon to enter licensed premises. No general powers of entry

N.B. Extended to entry by warrant under suspicion by Breeding of Dogs Act 1991 (except to private dwellings, but including outbuildings)

Animal Health Act 1981

S.52 LA can appoint inspectors and officers

S.63 (1) and (2) Powers of constable specified and wide powers of entry on reasonable suspicion

Dangerous Dogs Act 1991

S.5 (1) Constable or LA officer can make a seizure of an animal in a public place

S.5 (2) Constable under court order may enter premises on suspicion

Summary of Chapter 7

From the questionnaire responses, it is clear that LAs require guidance in the following areas:

- Mandatory licence conditions and licensing requirements
- Fees authorities are permitted to charge for licensing and inspections
- Powers of entry provided to LAs by the Act
- The selection of an appropriate inspecting veterinary surgeon

We would also recommend that information is provided on the provisions and Schedule of the Act to raise awareness among Council switchboard and helpdesk personnel.

8. Legal cases and prosecutions

Section 6 (1) of the DWAA was amended by sections 38 and 46 of the Criminal Justice Act 1982, setting a level of fine which may be awarded by a Magistrate rather than a fixed penalty. The penalty for an offence under the DWAA is currently a fine not exceeding level 5 (which equates, in January 2001, to £5000). Level 5 is the highest level on the magistrate's scale, short of a prison sentence, and this gives an indication of the perceived seriousness accorded to an offence under the Act.

From our questionnaire, 79 local authorities indicated that they had instigated or considered instigating a prosecution, or had confiscated animals, under the DWAA. Where a local authority indicated that they had taken or considered legal action, we contacted the authority to try to obtain

further details. As was found by Mearns and Barzdo in 1981⁹¹, very few offences under the Act were reported by local authorities, with almost 78% of our respondents claiming to have neither instigated nor considered instigating legal action under the Act.

Thirty-one local authorities provided additional information on the circumstances surrounding legal action. Of these, 12 local authorities had the intent to prosecute, but legal action did not ensue either because the animal was disposed of, or a licence was subsequently applied for, or the person moved out of the area.

We are aware of ten local authorities that have successfully prosecuted people for keeping DWAs without a licence. Only two local authorities have reported the fines imposed, which were both £200 plus costs of £195 and £220 respectively. With some annual licence fees being set at over £400, these fines hardly act as a deterrent. We have been informed that one court banned an individual from keeping DWAs for 10 years; however it is unclear as to how this could be enforced were the offender to move to another area. The prosecutions have resulted from either the local authority being informed about an animal being kept without a licence, failure to re-apply for a licence, the keeping of DWAs at an unlicensed pet shop (which would not, therefore qualify for an exemption under DWAA), or where unlicensed animals have been found following entry to a property on another legal matter.

Two local authorities have indicated that they have unsuccessfully prosecuted individuals under the Act. In one instance the local authority did not feel that it had the power to enter and subsequently seize the animal in question as no application for a licence had been made. The defendant then had the advantage of expert testimony on the animal involved (a wolf/dog hybrid), which the local authority was unable to counter without access to the animal. The second instance involved an individual whose licence had elapsed. The defendant won his case by claiming that a payment had been sent to the local authority in application for a new licence. Under Section 2 (3) of the Act, provided an application has been made for a further licence, the licence is deemed to be still in force pending the granting or refusal of the application. Although the local authority's lawyers advised them to appeal against this ruling, no further action was taken.

One local authority is currently prosecuting an individual for failing to renew a licence for animals still in his possession.

Eight local authorities have indicated to us that they have seized animals under the Act, but have subsequently decided not to prosecute the owner. The reasons for this course of action vary. Some local authorities believe that the confiscation of animals is punishment enough and others have seized the animals with the owner's consent. However, we are also aware that some local authorities feel that seizing animals is an effective alternative to prosecution. From research conducted by the authors in 1999⁹², it is clear that some local authorities do not pursue prosecutions once an animal has been seized for tactical reasons. An offence under the DWAA is tried under criminal law, which means that in order to win a case the authority must be able to prove "beyond all reasonable doubt" that a crime has taken place. In many cases involving DWAs it can be difficult to prove that an animal was being held illegally, either because the animal is no longer there, or because there is an onus on the council to prove that the animal is of a scheduled kind (which is difficult in the case of hybrids, for example). To avoid a criminal case, some councils have simply seized the animals without prosecuting the owners under the Act. In two cases, owners have subsequently sued the Council under the Torts Interference with Goods Act 1977 for the return of their property. This then becomes a civil rather than a criminal action, and the outcome is determined on the balance of probability, making a decision in the Council's favour much easier to achieve.

⁹¹ Mearns, C.S. & Barzdo, J. (1981) A Survey of the Dangerous Wild Animals Act application
Ratel **8(2)**: 12- 27

⁹² Cusdin, P.A. & Greenwood, A.G. (1999) The Keeping of Wolf Hybrids in Great Britain. DETR/RSPCA. Unpublished

It would seem that local authorities are generally reluctant to prosecute, and that often a solution can be found which avoids legal proceedings such as inviting the offender to apply for a licence. Whilst this may seem effective, as it reduces the costs incurred by the council, it must be noted that the Act does not provide for retrospective licensing and this course of action may be seen to be unfair by those licensing their animals annually. There certainly does not seem to be particular concern from unlicensed keepers about getting caught as the fines awarded are usually low, and most local authorities are keen to avoid prosecution if at all possible. The fact that LAs are reluctant to prosecute inevitably leads to fewer disqualifications from keeping DWAs under the Act; offenders who are not prosecuted and thereby disqualified may subsequently apply for a licence.

Summary of Chapter 8

- LAs are reluctant to prosecute under the DWAA
- It is common for a LA to allow an individual to apply for a retrospective licence rather than initiate legal proceedings
- Fines that have been imposed under the Act are low, both compared to annual licensing fees and in relation to the maximum fine allowed under the legislation
- LAs would benefit from improved guidance on their legal position under the DWAA in order that the Act is seen to be enforced and to act as a deterrent to non-compliance

9. Source of animals

Leaving aside the acquisition of DWAs used for farming (see Chapter 11), there are a limited number of sources of scheduled animals for the private keeper.

- (a) **Zoos** - in the 1970s, zoos and safari parks were the main source of large carnivores whose keeping prompted the Dangerous Wild Animals Bill. Nowadays, zoos have become much more responsible about the disposal of surplus stock. The Federation of Zoos' Animal Transaction Policy⁹³, while not prohibiting the sale of animals to private owners, requires that members must be fully aware of the facilities of a proposed recipient of an animal, particularly where the animal is a primate, or falls into Category 1 of the Zoo Licensing Act Dangerous Animal Categorisation⁹⁴. The Policy also requires a proforma to be filled out and kept for six years, thus permitting tracing of all animals removed from a zoo. Compliance with this Policy is now enshrined in the Zoo Standards⁹⁵, and there is a specific requirement for zoos passing on stock to ensure that "the appropriate licences for the keeping and management of the species must be held"⁹⁶.

Zoos do co-operate with private owners in the maintenance of breeding programmes of endangered species on the DWA Schedule (e.g. lemurs), but current constraints should ensure that animals are not passed to unlicensed private keepers.

The low level of control on the movement of wild animals within the EC means that private keepers could import animals from zoos in Europe without DWAA licensing, although there is little evidence of this happening.

- (b) **Dealers and importers** - although dealers and importers of wild animals are required to be licensed under the Pet Animals Act 1951, they are in a slightly different category to pet shops. During the 1970s and early 1980s, there were a large number of dealers who both

⁹³ Federation of Zoological Gardens of Great Britain and Ireland (1999) Animal Transaction Policy

⁹⁴ Secretary of State's Standards of Modern Zoo Practice Chapter 12: 75-136

⁹⁵ Secretary of State's Standards of Modern Zoo Practice Appendix 4: 33

⁹⁶ Secretary of State's Standards of Modern Zoo Practice Standard 6.1:15

imported animals from the wild and overseas zoos, and dealt in animals between zoos in the UK. Much of this stock found its way into private hands and concerns about conservation and welfare issues led to the inclusion of many more species in the 1984 Modification Order (see Chapter 3). The number and activity of such dealers has decreased greatly as zoos tend to carry out their own transactions, and the requirements and associated costs of rabies quarantine have greatly reduced the import of primates and small mammals. Records from CITES and the Animal Reception Centre at Heathrow Airport are difficult to interpret because import for "trade purposes" does not distinguish between animals destined for zoos, scientific establishments, public sale or re-export. Some six traders are involved in the importation of scheduled reptiles, however⁹⁷, and this issue is further covered in Chapter 10.

- (c) **Direct import** - rabies quarantine limits the personal importation of most scheduled mammals, but there is no control on the importation of scheduled reptiles and invertebrates from the EC and this is considered to be a significant problem (see Chapter 10).
- (d) **Pet shops** - the number of pet shops offering DWAs on open sale to the general public, where they may be expected to be bought on impulse, is very low. Most of the trade is through specialist shops, particularly in reptiles, and these tend to advertise in specialist magazines. A survey of Environmental Health departments in six major conurbations revealed 252 licensed pet shops, with none openly selling DWAs.
- (e) **Private breeders** - the large number of licensed small primates (Cebidae and Callithricidae) still in private hands, in the absence of a significant import trade, suggests that there is a continuous source of UK bred stock on the private market. These animals are advertised between keepers by word of mouth, in small society magazines and in publications such as *Cage and Aviary Birds* or *Exchange and Mart*. These latter publications carry a warning about the need for a DWAA licence before purchasing scheduled animals, but a small number of advertisements appear in local papers and freesheets, where impulse buying may be prompted. It is also likely that there is a substantial market in UK bred venomous reptiles and invertebrates (crocodilians are rarely bred).

Among twenty private keepers (other than farmers) questioned, six had sourced animals (often years ago) from zoos, ten from other private keepers, five from the pet trade, and two from welfare organisations. Only three had disposed of animals to other private keepers, usually having bred a surplus.

Summary of Chapter 9

- DWAs are obtained via five important sources - zoos, dealers and importers, private import, pet shops and private breeders
- Venomous reptiles and invertebrates are most likely to be obtained from dealers or breeders, or privately imported from EC countries
- Invertebrates may be obtained from overseas dealers via the postal service
- Mammals, particularly primates, are usually sold by private breeders
- There may be a small supply of all kinds of animals from zoos, but only to selected keepers

⁹⁷ Animal Reception Centre, Heathrow Airport, London (2000) Personal communication

10. Unlicensed animals

It is inevitably difficult to measure the extent of unlicensed DWA keeping in England and Wales. Estimates from animal keeping organisations and the pet trade suggest an 85-95% rate of non-compliance, however we have found no proof to support non-compliance of this magnitude. We have approached this subject in a number of ways and have attempted to make a quantitative assessment in addition to anecdotal opinion. Our research, and common sense, would suggest that those scheduled animals most likely to be kept without a licence are those which can be kept hidden from the public. It is extremely unlikely that there are any large cats or elephants that remain unlicensed in England and Wales. Much more likely is the illegal keeping of scheduled reptiles, particularly venomous snakes, which may be housed in a single room and are easily hidden from visitors.

In order to try to obtain quantitative figures on the numbers of unlicensed animals, we requested information from a number of sources. We contacted the major insurance companies prepared to insure DWAs, the Animal Reception Centre at London's Heathrow Airport, and the CITES team within DETR to try to obtain information on the number of animals in the country. Anecdotal information was received from various organisations and private individuals.

Insurance records and importation

We are aware of two insurance companies specialising in insurance for exotic pets. Only one of these companies could provide us with the details we requested. The company ExoticDirect offers liability insurance to DWA keepers. It is a condition of the insurance that a copy of the DWAA licence must be seen before the policy is validated. We were provided with figures showing the number of animals of various kinds covered by such insurance. Since being licensed is a condition of the cover provided, these figures are unlikely to show any animals being held illegally; however, even though this is not the only company to offer insurance to DWA keepers and our survey only covered England and Wales, the figures do correlate with those reported in our survey. A single anomaly was noted - ExoticDirect insured a collection of 33 scorpions; we are aware of only 11 scorpions being kept under licence. However it may be that not all of the 33 scorpions are of species which are scheduled under the Act.

The Animal Reception Centre (ARC), Heathrow, provided figures of certain DWA species imported. ARC inspects every consignment of live animals coming through Heathrow Airport, and can therefore provide reasonably accurate figures on the numbers of animals entering the country via this route (although in some cases the paperwork for consignments is missing). However it must be remembered that live animals may come into the UK (especially from the EC) via other routes, including other airports and docks, or accompanied by private importers. Due to the recording system in place at ARC, it was decided that we would concentrate on the import of DWA scheduled reptiles.

Between July 1999 and December 2000, ARC recorded that 298 venomous snakes and 290 caimans were imported into the UK. Consignments of venomous snakes ranged from two to over 40 specimens. On occasion, caimans were imported in consignments of over a hundred. Although it could be argued that some of these animals may arrive dead or may subsequently die, and that some animals may be re-exported from Britain, a figure of 298 venomous snakes and 290 caimans seems high compared to the respective 258 and 48 animals we are aware of that are licensed. (We were also interested to note that funnel web spiders are being imported into the UK for the pet trade, but we are not aware of any licence having been granted to keep such animals.)

Some of the species scheduled under the DWAA are also listed in the CITES Appendices. This requires that endangered species brought in from outside the European Community require import and export permits before they are moved. Movement without the appropriate permits is an offence. We requested information from the CITES division at DETR on permits which have been

issued to import DWA scheduled reptiles into the country. CITES records show that only six venomous snakes have been brought into the UK under permit since 1998. These snakes are not included on the list provided by the ARC⁹⁸, bringing the total number of recorded imports of venomous snakes to 304. However, the vast majority of venomous snakes are not listed by CITES. Also recorded was a total of 312 caimans imported under CITES permit in 1999 and 2000.

Although the number of caimans imported far exceeds the numbers licensed, we do not believe that non-compliance with the DWAA is the reason for this. It is our opinion, and that of ARC and reptile organisations, that caimans require specialised husbandry and care and it is extremely unlikely that the majority of animals imported for the pet industry survive to reach adulthood. Many may be re-exported to the EC.

ARC alone recorded the import of 40 more venomous snakes than have been licensed in England and Wales. We believe that one of the most popular methods of obtaining venomous snakes in this country is the private purchase and importation of snakes from "snake fairs" held annually in Holland and Germany⁹⁹. Snakes, even those listed by CITES, that are purchased within the European Community can be legally imported without a permit or the need for quarantine. As they are coming from Europe, it is likely that they are brought in on ferries or through the Channel Tunnel. Unless an importer is stopped by Customs, there is no way of monitoring the numbers of animals being brought in via this route. The import of DWAA scheduled species only becomes an offence once an animal is in Britain and is being kept without a licence. Since there is no system of monitoring such private importation, once a venomous snake arrives in Britain, it is very easy to hide. It was suggested that there may be between 10 and 20 venomous snakes brought into the UK each year via this route¹⁰⁰ although there could be many more.

Unlike caimans, the majority of venomous snakes adapt easily to captivity, and breed readily. Some species can give birth to over 70 live young¹⁰¹. It is likely therefore that there may be an internal supply of captive bred venomous snakes in the country. Since reptile enthusiasts often join reptile clubs and organisations, networks of people with an interest in venomous snakes can develop, which provide a market for the trading of such offspring.

Assuming that venomous snakes are also imported via ports other than Heathrow, and that there is a small legitimate market in venomous snakes through pet shops, it seems likely on the basis of these figures that there is a substantial unlicensed population of venomous snakes in England and Wales.

It is extremely difficult to estimate the numbers of DWA scheduled invertebrates being kept and imported in England and Wales. Our survey revealed only a single licence for 11 scorpions; however invertebrates, like snakes, are easy to keep without attracting attention. ARC inform us that the majority of invertebrates come into the country via the postal service, and there is no way of tracking such imports. Although it is illegal to send live scorpions and spiders by mail in this country, we have been told that consignments do arrive from abroad and, particularly those labelled as containing live animals, are extremely unlikely to be opened by Royal Mail staff, although they may be opened by Customs officials.

⁹⁸ They were of a different species to those listed by ARC

⁹⁹ Personal communication with snake owners and reptile associations. We are aware of 4 annual "reptile fairs" in Europe

¹⁰⁰ Currey, P. (2001) Personal communication

¹⁰¹ Mehrtens, J. M. (1987). *Living Snakes of the World*. Blandford Press, Dorset

Comments from private keepers and organisations

Many people¹⁰² believe that there is significant non-compliance with the Act. As mentioned above, we have received many comments on non-compliance by keepers of DWA scheduled reptiles. During interviews with licence holders, two reptile keepers stated that they personally knew of between 10 and 40 people keeping venomous snakes without a licence. Whilst both may know the same people, this suggests that there may be at least double the number of snakes being kept, and possibly up to ten times as many, by unlicensed keepers.

It is also felt that some scheduled small mammals are kept without a licence. NAPAK, in particular, feels that many animals, such as small New World primates, hyraxes and raccoons, were added to the Schedule in 1984 without scientific reason. Consequently, they feel that many of their members refuse or neglect to license such animals on the basis that, in their opinion, they are simply not dangerous. Estimates of the level of non-compliance were similar to those of venomous snakes, but the reproductive rate of such animals, together with more difficulties with concealment, renders this less likely.

Ten local authorities indicated to us by questionnaire that they believed that there were some unlicensed animals in their area.

Reasons for non-compliance

- The legislation has not been supported by some animal keepers since the addition of species in the 1984 Modification Order, which they feel are not dangerous
- Some local authorities are charging punitive fees
- Some local authorities refuse to license animals
- Local authorities in different areas charge widely varying fees
- Cost of licence and veterinary inspection
- Lack of knowledge about the Act, both from members of the public and local authority switchboard operators
- Keepers are forced to complete paperwork and subject themselves to inspection
- Fines awarded by Magistrates for offences under the Act have previously been low¹⁰³; this does not encourage compliance

We do not conclude that the paperwork involved, or the lack of awareness about the Act, are common reasons for non-compliance. Much more important are the issues of the credibility of the Schedule and the restrictive actions of local authorities, both in the fees charged and the reluctance to licence certain species.

Summary of Chapter 10

- There is probably significant non-compliance with the Act, particularly by keepers of venomous snakes.
- It is likely that there is less significant unlicensed keeping of invertebrates and small mammals.
- It is very unlikely that any large mammals are being kept without a licence.
- Important reasons for non-compliance are the credibility of the Schedule and restrictive actions of local authorities

¹⁰² National Association of Private Animal Keepers, British Herpetological Supplies, Pet Care Trust, Animal Reception Centre and private individuals

¹⁰³ Often fines are less than annual licensing costs

11. Farmed species

One of the major changes in the keeping of DWAA licensed animals in the past 20 years has been the large rise in the numbers kept for farming. Our survey has revealed that 10,555 of 11,878 licensed animals (88.8%), held under 182 licences (48.5%), are ostrich, emu, wild boar, bison and guanaco. Some of these may be kept in small non-productive groups as "pets", but the vast majority are part of commercial enterprises. The numbers revealed by the survey contrast dramatically with the 1981 ABWAK and the 1989 DoE/MAFF survey, when there were no licensed ostriches at all (see Chapter 4). This phenomenon has occurred as part of the move to diversification in farming and it has to be considered whether the application of DWAA to these enterprises is still appropriate, or constitutes an unnecessary burden on farming.

A general presumption that DWAA is not intended for such a purpose can be traced throughout its history. From the original intention of Parliament to control animals kept by private people in their homes (see Chapter 3), to the delisting of the Arctic fox as a farmed species in 1977,¹⁰⁴ and the refusal to add other species farmed for their fur in 1997¹⁰⁵, it has been recognised that most farmed species are subject to sufficient alternative controls to ensure public safety and animal welfare. During the drive for deregulation in the 1990s, a ministerial submission was prepared in 1993 proposing the delisting of ostrich, wild boar, guanaco and vicuna on the basis of excessive burden on business¹⁰⁶, but no action resulted. Between 1993 and 1995 the British Domesticated Ostrich Association (BDOA) made numerous submissions to DETR about excessive LA fees, ignorance by the inspecting veterinarians and LA officers, problems associated with licensing the correct number of birds, and movement of birds to shows. An internal DETR review, which resulted in the ministerial submission of 1993, noted that MAFF was against the inclusion of the ostrich as this was an unnecessary burden on a developing industry and the birds were generally not dangerous¹⁰⁷. This opinion was consistent with those previously expressed about Arctic fox, mink and deer (see Chapter 3). Similar submissions by correspondence were received about guanacos in 1997.

In the light of this background, and submissions we have received from the BDOA, the Rhea and Emu Association (REA), the British Bison Association (BBA) and the British Wild Boar Association (BWBA), we have considered the licensing of farmed species in some detail. In this, we have been greatly assisted by consultations with MAFF Animal Welfare Department.

Definition of farmed species

Any attempt to deal differently with farmed species under DWAA would require an appropriate definition. The Agriculture Act 1947, which regulates the use of agricultural land, provides a derived definition of livestock. Under Interpretation, Section 109 (1), "Agricultural land" is defined as land used for agriculture which is so used for the purpose of a trade or business. Section 109 (3) indicates that "agriculture" includes "...dairy farming and livestock breeding and keeping" and "livestock" includes any creature kept for the production of food, wool, skin or fur, or for the purpose of its use in the farming of land. Similarly, s.2(1) of the Welfare of Farmed Animals (England) Regulations 2000 defines [for these regulations] "animal" as "any animal (including fish, reptiles and amphibians) bred or kept for the production of food, wool, skin, or fur, or for other farming purposes".

The Agriculture Act 1967 (establishing the Meat and Livestock Commission) defines "livestock" more narrowly as cattle, sheep and pigs¹⁰⁸, but refers interpretation of "agriculture" and "agricultural land" and "farming" back to the Agriculture Act 1947¹⁰⁹.

¹⁰⁴ DWA 1976 (Modification) Order 1977 No. 1940

¹⁰⁵ Parliamentary Question 1997 297: 445W

¹⁰⁶ DETR File 2994/18

¹⁰⁷ DETR File 2994/21

¹⁰⁸ The Agriculture Act 1967 Section 25

¹⁰⁹ The Agriculture Act 1967 Section 71

The Rent (Agriculture) Act 1976, Section 1.1 (a) (i), uses the same definition of agriculture but includes such activities whether they involve the use of land or not. Section 2 extends the definition of agriculture to include "any animal which is kept for the production of food, wool, skin or fur, or for the purpose of its use in the carrying on of any agricultural activity, and for the purposes of this definition, animal includes bird but does not include fish"

There are sufficient available definitions of farming, or farmed species, available to separate the genuine farming of wild animals from private keeping as a hobby.

Welfare of farmed species

The Welfare of Farmed Animals (England) Regulations 2000 consolidates some previously enacted farm animal welfare legislation and gives effect to EC legislation relating to farm animal welfare¹¹⁰. Other important areas, such as welfare in transport and slaughter, are covered by a range of other legislation, and this new regulation covers areas which, in any case, are included in Section 1 (3) (c-f) of DWAA (when applied to scheduled species). It provides for powers of entry as under the parent Act, and for the serving of improvement notices on offenders rather than the need for court proceedings.

Security of farmed species

It is an offence under section 14(1) Wildlife and Countryside Act 1981 for "any person [to] release or allow into the wild any animal which -

- (a) is of a kind which is not ordinarily resident in and is not a regular visitor to Great Britain in a wild state; or
- (b) is included in Part I of Schedule 9" [which includes animals such as the red-necked wallaby and porcupines of the genus *Hystrix*]

Ostriches

Ostriches are kept in the UK for the most part for farming, but a few animals are kept as "pets" or for other commercial purposes such as filming. The farmed ostrich may lay some claim to being a domesticated species, as most of the UK stock derives from a subspecific hybrid ostrich (*Struthio camelus camelus* x *Struthio camelus australis*) which has been bred commercially in South Africa for improved meat, hide and feather production since the 1860s¹¹¹. As such it could be argued that it must be excluded from the Schedule, as are llamas, alpacas and domesticated species of *Bos* and *Bubalus* (cattle and buffalo). There are 4769 licensed ostriches in England and Wales (unlicensed keeping of ostriches is considered unlikely), which could allow that it is commonly domesticated in the UK. This would exclude it from the only working definition of a "dangerous animal" available (Animals Act 1971 Sections 2 and 6). In fact, it is fully accepted that some ostriches, especially breeding males, are dangerous, but certainly not more so than some other breeding male domestic animals, such as bulls and boars.

The ostrich is well catered for by extensive welfare guidelines as its introduction into farming in the EC was always considered to present potential welfare problems^{112,113}; however, these guidelines are not legally binding. FAWC Guidelines address on-farm husbandry and emphasise the specialist nature of ostrich farming. Comments on emu and rhea are included. The recommendations include the discouraging of escape, although the recommended fencing height is lower than the Council of Europe recommends. All aspects of welfare are thoroughly dealt with.

¹¹⁰ Council Directives 88-166, 91-629, 91-630 and 98-58

¹¹¹ Ratite Encyclopedia 1995 Ed. Claire Drenowatz. Ratite Records, Inc. San Antonio

¹¹² Farm Animal Welfare Council (1994) Guidelines for the Welfare of Farmed Ostriches. MAFF, London

¹¹³ Standing Committee of the European Convention for the Protection of Animals kept for Farming Purposes (1997) Recommendation concerning ratites. T-AP (94) 1

The Council of Europe Recommendation¹¹⁴ provides for and includes (Article 11) a provision for fences to prevent escape and deter entry. Although MAFF have no register of ostrich farms as there is no requirement to register them as "poultry", Article 4.3 of the Recommendation proposes a requirement for official authorisation. (DWAA does not provide for a central register either).

It can be argued, we believe, that the costs and work involved in annual DWA licensing of genuine ostrich farms add little or nothing to public safety or animal welfare in relation to this species, and that the welfare of ostriches in farming is adequately protected. There are sufficient definitions of "farming" and "livestock" which can be used to separate farmed ostrich from ostrich kept for other purposes; the latter do not have equivalent welfare protection, may be derived from non-domestic zoo ostriches, and should be retained in the DWA Schedule. Removal of farmed ostriches from the Schedule, by an appropriate form of words, would be both possible and desirable, and would reduce the current number of licences issued by about 28%, a considerable reduction in the burden on both agriculture and administration.

Emus and Rheas

Emu farming is practised quite extensively in some areas, but in the UK and EC it is a very small enterprise, and most emus kept are probably not truly commercial. The Rhea and Emu Association has some 32 members of which only 5 keep emus, although there may be some 10 to 20 other emu keepers¹¹⁵. There is little evidence that any of these keepers farm any products except offspring for breeding stock or eggs for decoration. Rheas were delisted in 1981 (reasons unknown) and probably neither species represent any severe risk to the public. The Council of Europe Recommendation concerning ratites covers both species, in addition to the ostrich, and provides for general welfare, management and escape prevention. FAWC have produced guidelines for these species, although very much subsidiary to the ostrich¹¹⁶, but it would be doubtful whether the majority of emus kept would fall under the definition of farming and thus the Welfare of Farmed Animals (England) Regulation 2000.

Nevertheless, given the limited amount of private keeping of emus and their relatively docile nature, there may be justification in either delisting all emu now or reconsidering their position as farmed animals if the industry and accompanying legislation develop.

Wild boar

Wild boar farming is the best developed of all alternative species farming industries in the UK. Although there are only 47 licensed farms in England and Wales (and around 20 in Scotland), there is a highly developed market and a Quality Assurance Scheme modelled on that for pigs. Most wild boar are pure-bred, and genetic tests for hybridisation are available¹¹⁷.

The British Wild Boar Association (BWBA) has organised the industry in the UK since the 1980s and currently has 40 members in England and Wales (and some 20-30 in the newly formed and affiliated Scottish Wild Boar Association). It is therefore likely that the great majority of wild boar farms, in England and Wales at least, are currently licensed under DWAA.

A survey of numbers conducted by BWBA in 1993, in response to a DoE exercise in deregulation, received 10 replies from 30 members (not all of whom then kept wild boar). The majority felt that licensing was not necessary to ensure standards of security and welfare, but were not convinced that licensing represented a burden on business¹¹⁸. A supporting letter from the ADAS Pig Consultant (MAFF, Bury St. Edmunds) suggested that although wild boar were more dangerous

¹¹⁴ Standing Committee of the European Convention for the Protection of Animals Kept for Farming Purposes (1997) Recommendation concerning ratites. T-AP (94) 1

¹¹⁵ Personal communication, M. Dover, Emu and Rhea Association

¹¹⁶ Farm Animal Welfare Council (1994) Guidelines for the Welfare of Farmed Ostriches. MAFF, London

¹¹⁷ Pig Improvement Company

¹¹⁸ Letter to DoE, 21.10.93

than other farmed livestock, the commitment to secure fencing and the propensity for the animals to run away from people in the open made the risk to the public low. He referred to the benefits of a Quality Assurance Scheme removing the need for a DWAA licence.

A current submission by the BWBA indicates that the organisation feels that DWAA licensing is unnecessary as all wild boar are farmed, and farmers need to keep their stock secure. They feel that licensing costs and the time consumed in making applications and dealing with site visits by uninformed inspectors are a significant burden and cause of frustration. Licence fees quoted fall within the average range recorded in Chapter 5, but fencing and other standards tend to vary, and local authorities are perceived as putting unnecessary obstacles in the way of applicants.

Wild boar are the same species as the domestic pig (*Sus scrofa*) and thus any hybrids involved are arguable candidates for licensing (see Chapter 12). The majority of wild boar (85-90%) kept are pure-bred and their genetic pedigree can be tested¹¹⁹. Assured British Meat operates a Wild Boar Quality Assurance Scheme as a branch of the Assured British Pigs Scheme. This certification scheme is promoted by BWBA and requires exacting standards of production and welfare, including mandatory DWAA licensing and secure fencing specifications.

Wild boar farming is a small but well-founded industry and, being pigs, wild boar are highly regulated by MAFF. As well as being protected by the Welfare of Farmed Animals (England) Regulations 2000 (which has a specific Schedule for pigs), all pigs have to be registered with MAFF under PRIMO, the Pigs (Records, Identification and Movement) Order 1995¹²⁰. No pigs can be moved without marking, nor to other premises without authorisation, and this Order is enforced by local authorities. All the equivalent provisions of the DWAA, except licensing inspections, are therefore already under LA control through other legislation as applied to wild boar, and their inclusion under DWAA would seem nowadays to be unnecessary duplication of legislation.

We propose, therefore, that the newly formed DEFRA enters into discussions with the industry with a view to delisting farmed wild boar from the DWAA Schedule.

Bison

There are 119 bison currently licensed in England and Wales held by eight keepers. The British Bison Association (BBA) (which also covers Scotland) has 25 members of which 9 keep bison commercially¹²¹. The BBA felt that farmers found licensing fees to be unnecessarily high and doubted the need for annual inspection. They felt that several would-be farmers may have been put off by the licensing process. They value the licensing process in that it relieves farmers of the necessity of blood testing bison when kept fenced and isolated, and it provides protection from harassment by dogs on public footpaths, which may provoke attacks by bison. The consensus view seems to be that licensing should remain for the time being, but that a set of standards for inspectors should be established (as for ostriches)¹²².

Guanaco

There are 7 keepers of guanaco licensed for 650 animals. Only one of these is a large commercial farmer, keeping guanaco for fibre production. It is our view that as guanaco are very similar to llamas (which are an excepted species, and derived from guanaco), and there are very few keepers and only one serious farmer, guanaco (and vicuna) should be deleted from the Schedule and so a farming exception need not be considered.

¹¹⁹ Communication from BWBA and Pig Improvement Company (2001)

¹²⁰ Statutory Instrument 1995/11

¹²¹ British Bison submission 12 March 2001

¹²² Dangerous Wild Animals Licensing Liaison Group (1997) Model Licence Conditions and Guidance for the Keeping of Ostriches. Chartered Institute of Environmental Health, London

Summary of Chapter 11

- 88.8% of all licensed animals are farmed species
- Numerous submissions have been made requesting deregulation for farmed animals
- Farm animal welfare is now protected in England by the Welfare of Farmed Animals (England) Regulations 2000. These regulations also provide powers of entry to farms
- Ostrich and emu welfare is protected by a Council of Europe Recommendation
- Wild boar keeping is regulated, both by DEFRA and through a voluntary Quality Assurance Scheme
- The removal of **farmed** ostrich and wild boar from the Schedule is recommended
- The removal of all emu, or farmed emu should the industry develop, is recommended
- The removal of all guanaco and vicuna from the Schedule is recommended
- Bison should remain on the Schedule

12. Hybrid animals

Hybrids of listed mammals were included in the 1984 Modification Order. This has raised particular enforcement problems for local authorities, as the identification of hybrids is difficult. The wording of the Schedule covering hybrids is as follows:

"Any hybrid of a kind so specified in the foregoing provisions of this column where one parent is, or both parents are, of a kind so specified".

The explanatory note in the second column of the Schedule makes it clear that this definition covers hybrid **mammals** only.

It is obvious that an animal resulting from a hybridisation between two scheduled species, such as a lion and a tiger, would be classed as a dangerous wild animal under the 1984 Schedule. Since the definition specifies that where "one parent ... or both parents" are of a scheduled kind, an animal resulting from the hybridisation between one DWA and one domestic animal is also classed as a DWA under the Act. Common DWA/domestic hybrids include wolf/dog hybrids, Bengal cats (part leopard cat), wild boar pig hybrids, equine hybrids such as zebroids, and guanaco/llama hybrids. The problem local authorities face is making the distinction between a wholly domestic animal, which would be excepted from the Act, and a hybrid animal which is included in the Schedule. There is a real difficulty associated with this, as many of the hybrids are bred between wild and domestic animals with very similar origins. Wolves, for example, are the species from which all domestic dogs are descended. It is extremely difficult to determine when a wolf hybrid becomes a domestic dog, since **all** domestic dogs are essentially wolf hybrids. There are similar difficulties associated with wild boar/domestic pig hybrids (they are the same species), and guanaco/llama hybrids (llamas were domesticated from guanacos).

Many approaches have been received by DETR from local authorities seeking guidance on the issue of hybrid animals. The wording of the Schedule has caused some confusion, and at some point DETR provided misleading advice to LAs on the meaning of "parent"¹²³. It is our opinion that in the context of the Act, parent clearly means the mother or father of an animal, rather than a more removed "forefather" as was suggested by DETR. However, taking the case of wolf hybrids as an example, the mother or father of a hybrid does not have to be a pure wolf for the offspring to be classed as a DWA. If the mother or father are themselves a wolf hybrid, then they are of a kind specified by the Act, and any resultant offspring are also scheduled. Under the Act, the first column of the Schedule should be used to determine whether or not an animal is included or excepted by the Schedule. Thus, in the case of wolf hybrids, the Schedule covers **all** Canidae except for certain species, including *Canis familiaris*, the domestic dog. If a canid is not of a

¹²³ DETR. Letter ref. WLF2994/2 to Born Free Foundation 15 April 1996

species specifically **excluded** by the Schedule, i.e. if it is not a domestic dog, then it is covered by the Act. This may go some way to advise LAs on which species require licensing under the Act, but there is a genuine difficulty in determining whether an animal is an excluded species. It makes no difference how many generations removed a pure-bred DWA is from a hybrid - if the hybrid animal does not show the species-specific appearance and behaviour associated with an excluded species, then it requires a licence. This opinion is supported by a court decision in 1997¹²⁴ (albeit a civil case), where the testimony of an expert witness¹²⁵ concluded that an animal with a wolf genetic representation of less than 1% wolf would not be *Canis familiaris*, since it could still have a large number of wolf genes present.

At the present time there are no genetic tests available to distinguish between domestic and hybrid animals. Genetic tests have been developed to determine how diluted a hybrid of the wild species has become, particularly for farmed animals such as wild boar and camelids where pure-bred animals are desirable. For quality assurance reasons, farmers need to prove that their animals contain a minimum percentage of a desirable species' genes. Unfortunately, it is very difficult to prove that an animal is an unadulterated domestic species; as there are no commercial reasons to develop a test for domestic animals, it is unlikely that genetic tests will assist the identification of animals for the purposes of the DWAA.

The licensing of hybrid animals under the DWAA is likely to continue to cause difficulties for LAs unless the definition of "hybrid" is changed in the Schedule. At the present time, LAs are forced to rely on advice from experts on the appearance and behaviour of suspected DWA hybrids. Understandably, LAs are very reluctant to pursue the issue of licensing hybrids in the courts, and the inclusion of hybrids in the Schedule as it currently stands does not provide a reliable definition on which to base a legal prosecution.

Summary of Chapter 12

- In 1984, the Schedule was modified to include hybrids of scheduled mammal species
- The wording of the Schedule with respect to hybrids has caused much confusion
- A hybrid whose mother or father is a scheduled mammal requires a licence
- The identification of hybrid mammals, particularly those bred from one wild and one domestic parent, or from two hybrid parents, is extremely difficult
- LAs require further guidance on this subject
- The re-wording of the Schedule with respect to hybrids is recommended to clarify its meaning, as suggested in Chapter 17

¹²⁴ Susan Wildin v Rotherham Metropolitan Borough Council 1997, Sheffield County Court 18 June 1997

¹²⁵ M. W. Bruford, Conservation Genetics Group, Institute of Zoology, London

13. Circus winter quarters

We have been requested by DETR and the Home Office to consider whether it would be appropriate to licence circus winter quarters under the DWAA.

Circuses were exempted from DWAA licensing as a result of Parliament wishing to limit the Act's application to private animal keepers (see Chapter 3). Section 5 of the Act states: "The provisions of this Act shall not apply to any dangerous wild animal kept in: -

- (i) a zoological garden [wording subsequently amended by the Zoo Licensing Act 1981]
- (ii) a circus.." etc.

"Circus" is defined in section 7 (4). It "includes any place where animals are kept or introduced wholly or mainly for the purpose of performing tricks and manoeuvres".

The definition of "circus" has been clarified in two important judgements - Hemming v Graham-Jones 1980 and South Kesteven District Council v Mackie and others, 1999.

The Graham-Jones judgement essentially prevented circus animals being removed from the confines of "the aggregation of vans and cages in which wild animals may be kept and a big top into which they may well be introduced for the purpose of performing"¹²⁶ without a DWA licence, and the judgement defined circus as it is commonly understood. The Mackie case turned on whether or not the place where a circus stood with its animals during the non-touring period, traditionally described as "winter quarters", fell under the exemption. The defence claim that it did and, therefore, did not require DWA licensing, was upheld on appeal in the Court of Appeal. This Court of Appeal decision overrides the previous hearing, and the law is now clear that circus winter quarters are **not** covered by the DWAA. Circuses are also exempted from the Zoo Licensing Act 1981, under which a similar definition (with slightly different wording) applies.

All circus animals (including all DWAs¹²⁷) are currently covered by the Performing Animals (Regulation) Act 1925. Animals are listed on certificates of registration which are issued to animal trainers under the Act. This is a registration, not a licensing, scheme requiring people who exhibit or train performing animals to be registered with their local authority. Their registration must list the animals used and the nature of their performances. There are no criteria that have to be met before a person's name is added to the register, and the LA has no control over the number or types of animals involved. A person does not have to own the animals listed, and there is no requirement to provide updated information to the LA.

Unlike a licensing system, no administrative measures (such as the imposition of conditions) can be taken against a person under the PAA. The only ground on which a person can be taken to court, with the possibility that conditions be imposed or their registration be cancelled, is if it can be shown that the training or exhibition has been "accompanied by cruelty".

Powers of entry and inspection are provided but there are no specific requirements concerning animal welfare or public safety. The Secretary of State has a general discretion and enabling power under section 5(2) to make regulations, but these powers do not allow him to change the nature of the Act sufficiently to incorporate such wider requirements.

Recent reports on the circus industry in the UK^{128,129,130} have given numbers of wild animals being kept much higher than they are today. During this review we contacted every tenting circus in the

¹²⁶ McNeill, J. (1980) The Times, October 23rd Hemming v Graham-Jones

¹²⁷ Except invertebrates

¹²⁸ Creamer, J. & Phillips, T. (1998) The Ugliest Show on Earth. Animal Defenders

UK and other individuals keeping animal acts used for circuses. There are a total of about 41 animals on the DWAA Schedule kept by 6 circuses or trainers. Nine other circuses keep domestic animals (or llamas) only and some of these only during the season. Legislation to license circus winter quarters alone would therefore control a very limited constituency. It is likely that this number of animals will continue to fall owing to retirement (both of people and animals) and for economic reasons.

DETR has indicated that, on the basis of the Hemming case, the DWAA applies to winter quarters¹³¹. This view was based on opinion from its legal department in 1994¹³², but was effectively overturned by the Mackie judgement¹³³ which recognised no reason why the activities of circuses during the summer should be exempted, but not in winter. A number of LAs have written to DETR in the past requesting that circus winter quarters be subject to licensing and 11 LAs responded in the same way to our questionnaire, all preferring DWAA as the appropriate legislation.

Animal Defenders have prepared a draft Private Member's Bill for the Home Office, which proposes to alter the Zoo Licensing Act 1981 to incorporate circus holding facilities within its licensing regime and to widen both the definition of zoo to include holding facilities for performing animals and the definition of circus to include animals kept for other types of performance (film, television etc.). Bringing circuses under the Zoo Licensing Act was also a feature of the Labour Party's 1997 manifesto on animal welfare.

The Circus Working Group¹³⁴ agreed that ZLA and DWAA were unsuitable for regulating circus standards as they were written for a specific and different purpose. They favoured the introduction of completely new legislation to deal with circuses by licensing. The Association of Circus Proprietors supported such an option, both in the report and by submission to us. About half of the circuses we contacted were also in favour of some kind of legislative control of winter quarters (the option proposed to them was control under DWAA).

Given that specific new circus legislation is unlikely to be granted Parliamentary time in the current climate, there seem to be three options for dealing with circuses. The first, incorporating them under ZLA, would undoubtedly lead to serious objections from zoos and, in any event, is probably no longer possible since the institution of the EC Zoos Directive, which specifically exempts circuses. The second option is to remove the exemption for winter quarters from DWAA. This would have the advantage of allowing inspection of such quarters to meet the required criteria for public safety and animal welfare. Other training establishments that keep DWAs for other purposes, such as the film industry, are already required to be licensed by not falling within the definition of circuses. The disadvantages would be that such a change would be beyond the original intentions of Parliament, as emphasised in the Mackie judgement, and would not apply either to domestic animals kept in circuses, other performing domestic animals, or to visiting circuses touring the UK from outside.

It seems to us that, although use of DWAA is an option, it would deal only with what is nowadays a very small problem. A third option, outside the scope of this review, seems to be to revise the Performing Animals (Regulation) Act to incorporate requirements for public protection (in the case of dangerous animals) and animal welfare, as part of the existing inspection regime, and to make such inspection a mandatory part of registration. This would allow a much wider coverage of

¹²⁹ Kiley-Worthington, M (1990) *Animals in Circuses and Zoos*. Little Eco-Farms Publishing, Basildon

¹³⁰ Circus Working Group (1998) *A report into the Welfare of Circus Animals in England and Wales* RSPCA, Horsham

¹³¹ Letter to East Lindsey District Council (1999)

¹³² Sessions, B. Legal Group, DETR 14 April 1994

¹³³ Gray, J. (1999) *South Kesteven District Council v Mackie & Others*. Transcribed by Marten Walsh Cherer Limited, London

¹³⁴ Circus Working Group (1998) *A report into the Welfare of Circus Animals in England and Wales* RSPCA, Horsham

animal training and performance in general, would also legislate for circuses whilst on tour as well as resting, and would deal with any kind of visiting performing animal from outside the UK.

Summary of Chapter 13

- Circus in the UK is a very small industry
- Incorporating the control of circuses into the ZLA is not a viable option because of the European Zoos Directive
- Alteration of the DWAA to incorporate circus winter quarters is feasible, but would only affect 6 establishments and have no other benefits
- Revision of the Performing Animals (Regulation) Act 1925 could provide a better option by applying animal welfare and public safety provisions to all performing animals under all circumstances

14. Review of comparable legislation

There are great difficulties in attempting a comparison of legislation between countries. Without a clear understanding of the legal system and other associated legislation in such countries, it is extremely hard to make a well-reasoned comparison of the strengths and weaknesses of the various laws. Since many overseas countries have licensing systems not only for exotic species, but also for their native species, and laws may be created on a regional or even municipal basis, it is extremely difficult to relate these laws to those in place in England and Wales. For this reason, we made no attempt to compare overseas legislation to the DWAA.

More pertinent to this review is the development of similar DWA laws within the British Isles. The Dangerous Wild Animals (Jersey) Law 1998 came into force in September 1998. This is largely based on the Dangerous Wild Animals Act 1976; however it has some notable modifications, which may have improved the provisions of the legislation. The differences and similarities to the 1976 Act are outlined below.

- i. "Dangerous wild animal" is defined as an animal listed by the Schedule to the respective Law. No attempt was made in the 1998 Law to provide set criteria for inclusion in the Schedule.
- ii. The 1998 Law does not apply to those zoos or circuses for the time being exempted in writing by the Agriculture and Fisheries Commission. Pet shops are not exempted from the 1998 Law.
- iii. The 1998 Law increases the minimum age of an applicant to 20 years, and prevents any person applying who has been disqualified from keeping an animal (whether or not it is a dangerous wild animal).
- iv. A standard, comprehensive application form is provided as Form 1 in the 1998 Law, and a standard licence with conditions is provided as Form 2.
- v. Standard licence conditions required by the 1998 Law include an obligation to inform the authority in the event of births or escapes.
- vi. The Third Schedule of the 1998 Law specifies a licence fee of £200.
- vii. The 1998 Law requires suitable social and environmental facilities, in addition to the suitable construction, size, ventilation, drainage, temperature and cleanliness required by the 1976 Act s.1(3)(c). Also in Article 6 of the 1998 Law, there is a requirement to control the spread of human as well as animal infectious diseases.
- viii. Powers of entry are provided to the States' Veterinary officer, including the power to "enter any place at which a dangerous wild animal is held, or at which he suspects on reasonable grounds that such an animal is held"¹³⁵.
- ix. Veterinary inspections are performed by the States' Veterinary Officer on an annual basis. A veterinary report from the keeper's own vet is also required as a part of the application.

¹³⁵ Dangerous Wild Animals (Jersey) Law 1998, Article 14 (1) (b)

- x. The 1998 Law prohibits any movement of dangerous wild animals, except in circumstances specified on the licence.
- xi. A right of appeal has been provided to a licensee where an animal has been retained following a contravention of the 1998 Law.
- xii. The penalty allowed where a person is guilty of an offence under the 1998 Law is imprisonment for a term not exceeding 12 months, or a fine not exceeding level 4 on the standard scale (£5000), or both.
- xiii. The Schedule of the 1998 Law is very similar to the 1976 Act, however it excludes all rodents.

Legislation to control the keeping of DWAs in the Isle of Man has been proposed. The Dangerous Wild Animals Bill 1977 was defeated on its third reading in the House of Keys, and a subsequent Dangerous Wild Animals (Prohibition of Importation) Bill 1978 was never adopted.

Similar legislation to the 1976 DWAA is currently proposed for Northern Ireland. A consultation paper on the proposals was sent out by the Department of the Environment for Northern Ireland in 1999. To our knowledge, no progress has been made since then. We believe that a proposal is to be announced at the next session of the Northern Ireland Assembly in September 2001. The findings from this review are likely to be taken into account before any decision is reached.

Summary of Chapter 14

- The Dangerous Wild Animals (Jersey) Law 1998 is based on the DWAA 1976
- The 1998 Law includes modifications which resolve many of the perceived deficiencies in the 1976 Act
- A Dangerous Wild Animals (Northern Ireland) Act is under development

15. DWAA and the Human Rights Act 1998.

As a part of this review, DETR specifically requested that we consider how the recently implemented Human Rights Act (HRA) affects the provisions of the DWAA.

We have identified two possible areas where the HRA may affect DWA legislation:

The addition of species to the Schedule

During the course of our consultation process, one comment made was on the future addition of animals to the Schedule. The opinion was that additions to the Schedule might be subject to challenge in court, as any species not previously listed may have been kept by the public for the 25 years the legislation has been in force without being classed as "dangerous". It is our opinion that the HRA will not affect the Secretary of State's powers to add species to the Schedule in the future, as long as those powers are used reasonably and in accordance with the intentions of the legislation. If a decision to add species to the list can be reasonably justified in accordance with the policy underlying the Act, then the DWAA allows the Schedule to be changed. It is important to note that the DWAA is a regulatory rather than prohibitive piece of legislation, and does not deny the right to keep those animals listed on the Schedule, so long as an appropriate licence has been obtained. The Secretary of State can be best seen to be "acting reasonably" if decisions are made in line with a clear publicised policy (see Chapter 17).

Powers of seizure and entry

Powers of seizure and entry provided by DWAA are regarded by some local authorities as obscure, and have been interpreted in a number of ways. This subject has been discussed further in Chapter 7.

The articles of the HRA relevant to the DWAA make provision for the "*Right to respect for private and family life*¹³⁶", and the "*Protection of property*¹³⁷". Article 8 of the HRA on the right to respect for private and family life states "There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests ofpublic safety,or for the protection of the rights and freedoms of others". Similarly, the protection of property article states "No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law...". We consider that these caveats permit powers of seizure and entry to protect public safety, so long as they are exercised reasonably and for this specific purpose.

The DWAA clearly provides local authorities with the power to seize animals¹³⁸ for the protection of the public, but it is unusual in that it also provides them with sole authority to dispose of or destroy such animals. Other legislation, such as the Dangerous Dogs Act 1991, allows for the destruction of an animal following a court order, but provides the owner with a right of appeal¹³⁹. As animals may be disposed of or destroyed under DWAA and a right of appeal by the owner is not provided for, this section of the Act may conflict with the "Protection of property" article of the HRA. It is also arguable that an arrangement whereby a LA both initiates and executes seizure offends against the principle established in the European Convention on Human Rights that a person should be judged by an independent tribunal.

Whilst resolution of this potential conflict is ultimately a decision for the courts, a solution would be to amend the DWAA to require a court order before any animal is disposed of or destroyed, and to provide a right of appeal for the owner. Any amendments made to the DWAA must, however, retain powers for the emergency destruction of an animal posing an immediate risk to the public, or on humane grounds. It may be that, if a court order were required, there should also be a statutory exception if there is no prospect of the local authority finding secure and appropriate accommodation to keep the animal within a reasonable time.

Summary of Chapter 15

- The Human Rights Act does not affect the Secretary of State's powers to add kinds of animals to the Schedule at any time provided he acts reasonably
- Powers of entry and seizure provided for in existing legislation are not prevented by the Human Rights Act
- There is a potential conflict between the Dangerous Wild Animals Act and the Human Rights Act over powers of disposal and destruction of animals

¹³⁶ Human Rights Act 1998, Schedule 1, Part I, Article 8

¹³⁷ Human Rights Act 1998, Schedule 1, Part II, Article 1

¹³⁸ Dangerous Wild Animals Act 1976, Section 4 (1)

¹³⁹ Dangerous Dogs Act 1991, Section 4 (1), (2)

16. Review of the provisions of the Act

A number of weaknesses in the provisions of the DWAA have been revealed by our study. Local authorities in particular have pointed to numerous administrative difficulties whereas, apart from the question of fees, most of the animal keepers' difficulties have been with the Schedule. It is striking that most of the problems emphasised twenty-five years after the Act's inception were raised in the original parliamentary debates (see Chapter 3) and by subsequent advice and reviews¹⁴⁰. They have continued to be raised in correspondence to the sponsoring Departments ever since.

Granting of licences - Section 1

The primary provisions of the licensing process are covered in Section 1 of the Act, subsections 1-10. There are various difficulties inherent in this section.

SUBSECTION (2) AND (3) (A-B)

Under the general principles of administrative law developed by the courts, the procedural requirements expected of a LA may be somewhat less demanding when it refuses an initial licence application, compared to a decision against renewal, or a revocation while the licence remains in force. This emphasises the importance of the LA fulfilling all its duties under these subsections when determining an initial licence application. Particular difficulties are presented by the need to recognise persons disqualified under the Act from keeping a DWA (or under any other Act from keeping any animal). As no central register is held of such disqualifications, which may have taken place in another part of the country, the LA can only rely on local knowledge or the applicant's statement.

Equally, under subsection (3) (b), the LA needs to be sure the applicant is a "suitable person" to hold a licence, for which the Act does not provide a definition. This difficulty is compounded by the provision in section 1(4) for the granting of licences other than to a keeper of an animal, in exceptional circumstances. Such exceptional circumstances many include the granting of a licence to a company¹⁴¹, where the identification of the suitable person may be difficult. Although the lack of a definition gives the LA wide discretion, that discretion has to be used reasonably and stand up in court in the event of a refusal of a licence, and the Act gives absolutely no clue as to what constitutes a suitable person nor who should make the appropriate judgement. Often it may be left to the inspecting veterinary surgeon. Clearly the applicant needs to demonstrate responsibility and the ability to care for the animal by achieving the requirements of section 1(3) (c-f). If the Schedule restricts itself to the more dangerous animals, as originally intended, then the issue of responsibility arguably becomes clearer.

Options to deal with the weakness of these sections would be to require public notification of a licence application, which would open up wider sources of information about an applicant, or to set criteria either in the Act or in guidance to LAs.

SUBSECTION (4)

Section 1(1) makes it absolutely clear that there can be no keeping of a DWA except under licence. Interpretation of Section 1(4) must therefore be that an initial application must come from a proposed keeper, and that applications from those who already own and possess DWAs can only be for relicensing. In other words, retrospective licensing is not permitted except, presumably, under exceptional circumstances. A case in the Scottish courts¹⁴² has established that a licence must be granted **before** an animal is acquired, so "exceptional circumstances" would seem to be extremely limited. There have been numerous cases in England and Wales where LAs have granted

¹⁴⁰ Cooper, M.E (1978); BVA (1976); Blackman, P.E. (1989)

¹⁴¹ Interpretation Act 1978 Section 5 Schedule 1

¹⁴² Halpern v. Chief Constable of Strathclyde 1988 SCLR 137, 144 (ShCt)

retrospective licences as a way of avoiding prosecutions (see Chapter 8) and it is either necessary to clarify Section 1(4) or to deal with this in guidance to LAs.

SUBSECTION (5)

The veterinary inspection called for under this section is mandatory before granting a licence, and this includes annual relicensing. This inspection is required to contain information enabling the LA to decide whether the premises are suitable (i.e. safe and appropriate for the species) and to "describe" the condition of the premises and animals. This latter presumably means that the vet shall report on the provision of the welfare requirements listed under subsection (3) (c-f), which means that the authority should lay down the particulars about which it needs to be informed, as an inspection form. Many LAs do this already. The Home Office Minister, during the debate on the Bill in 1975, was confident that LAs would choose vets with specialist knowledge of the species being inspected¹⁴³, but that confidence seems to have been misplaced, judging particularly from the responses of keepers. A specialist list on which LAs could draw could be easily drawn up (or taken from those already in place under the Zoo Licensing Act), but to **require** the use of such a list would need a change in this subsection.

SUBSECTION (6) CONDITIONS ON THE LICENCE

This subsection lays out standard conditions which must be applied to every licence, as well as allowing other standard conditions only which secure the welfare requirements of subsection (3) (c-f). The condition (6)(b) restricting the species and numbers of animals to be kept has been ignored by a number of LAs and this is clearly illegal (see Chapter 18).

SUBSECTION (7) FURTHER CONDITIONS

This section gives a LA a discretion to specify such conditions of the licence as it thinks fit, "subject to subsection (6)". This latter phrase means that conditions applied under subsection (7) have to be over and above those of subsection (6). Conditions specified in (6) cannot be revoked by subsequent conditions in subsection (7). For example, the application of a condition such as a requirement to notify and prove to the LA of the death of an animal would be lawful. Some conditions which have been added under subsection (7), such as prohibiting sale of DWAs, could best be achieved by better use of subsection (6)(a)(iii) (see Chapter 18).

SUBSECTION (8) - THE "72 HOUR RULE"

The original intention of this "rule" is unclear. It may have been to allow movement for veterinary treatment or to allow temporary movement to a keeper's other premises. In practice, it is mainly used for the movement of animals to film studios and for similar purposes, and may result in animals spending up to 72 hours in unlicensed and possibly unsafe premises. For this reason, LAs have asked that prior notification except for emergencies should be given with adequate notice, so that they may temporarily licence premises. Although such movements may be specified under subsection (6)(a)(iii), they would seem to be in contradiction to the general provision of (6)(a)(ii) which makes such movements, by implication, "abnormal" or exceptional. Strict interpretation of these subsections may lead to the curtailment of the activities of professional animal trainers, which were clearly not intended by Parliament to fall under this Act, but would usefully mitigate against non-professional keepers undertaking such activities, which has led to undesirable situations¹⁴⁴. This subsection clearly needs revision to achieve the required level of safety and regulation.

SUBSECTION (9)

The provisions of this subsection emphasise our comments on subsection (8), by indicating that (6)(a)(ii) cannot be varied, so that any change of premises requires complete relicensing with veterinary inspection.

¹⁴³ see Chapter 3

¹⁴⁴ J. Hadley, Corporation of London. (2000) Personal communication

Supplementary provisions - Section 2

Corporate animal ownership

Subsection (6)(a-b) makes contravention of licence conditions by a person an offence. The Interpretation Act 1978 extends the definition of person in this context to include "company", if a licence is held for company owned animals. There are usually specific provisions in welfare legislation for directors to be liable¹⁴⁵ but they are not provided here, perhaps because the Act was not intended to apply to commercial operations. Unless commercial operations are to be excepted (perhaps being further controlled by an improved Performing Animals Act) then such provision should probably be made. (See also "Other licensing issues" in Chapter 7 of this report).

We believe that guidance on corporate ownership should be provided to LAs, if the DWAA is to continue to be used to licence professionally owned animals.

Inspection by local authority - Section 3

Powers of entry

Subsection (1) allows for the LA to authorise inspection of any premises where an animal may be kept by a vet or other competent person and these persons may enter such premises for such purposes. This does not contradict the ultimate requirement for a veterinary inspection before licensing (Section 1(5)), but has the severe flaw of not authorising entry to premises where no licence has been applied for or granted to ascertain whether an offence against Section 1(1) is being committed. In other words, the LA cannot gain entry to premises, even by warrant, if it only suspects that an unlicensed DWA is being kept. The powers of seizure (Section 4(1)(a)) of an unlicensed animal imply that powers of entry (to seize) are available if a LA **knows** that an animal is present, but it may be understandably reluctant to do so if there is any doubt. The question of lack of entry powers was raised in Parliament (see Chapter 3) and the difficulties arising were compared with the Breeding of Dogs Act 1973 (which was appropriately modified in 1991). This is probably the single most important defect leading to ineffectiveness and non-compliance with the Act. This subsection needs to be reviewed to provide for powers of entry for the LA to any premises on reasonable suspicion, by magistrate's warrant, as provided for in Jersey (see Chapter 14).

Inspection fee

Subsection (3) allows the LA to recover the reasonable costs of an inspection from the licence applicant, as well as the stipulated fee (sufficient to meet the direct and indirect costs of the application) required under Section 1(2)(e). Parliament was not willing to specify fixed fees (see Chapter 3) although the variation and level of fees has resulted in the largest volume of complaint from private keepers. LAs have lawful authority to charge a reasonable amount, but cannot make a profit or overcharge to prohibit keeping (as the activity is to be licensed, not prohibited). They can, however, vary their charges according to the work carried out, can charge more for the use of specialists, and can have a banding system with a higher initial fee if required. A keeper can challenge fees through the courts or by reference to the local government ombudsman under maladministration. The council has a fiduciary duty to its local tax payers, and cannot undercharge unless an effective policy of increasing uptake can be demonstrated (e.g. Stevenage Borough Council's policy - see page 36). Such a policy would have to be regularly reviewed, and the charge possibly increased if unsuccessful.

There seems to be no appropriate way of controlling LA fees (with a view to increasing compliance throughout the country) by altering the statute, unless the whole inspection process is changed so that an initial veterinary inspection, perhaps by a specialist, is followed by a nominal inspection by the LA at relicensing, and the more expensive inspections are repeated only 3- or 5-yearly or if

¹⁴⁵ Zoo Licensing Act 1981 section 19(5)

when is a major change in the keeping or numbers of the animals (a view supported by vets - see Chapter 6). Some progress could be achieved by pointing out the problem of non-compliance in guidance to LAs.

Powers of seizure - Section 4

The unfettered powers of seizure followed by retention, destruction or disposal of a DWA being kept in contravention of the Act or licence conditions are unusual, in that they do not require reference to a magistrate's court or provide an opportunity for appeal by the keeper. It is arguable that the authority provided by this provision may conflict with the Human Rights Act (see Chapter 15). This provision should be reviewed in order to ensure that it is compatible with the HRA.

Exemptions - Section 5

The exemption of zoos, circuses, laboratories and pet shops under this section was intended to leave professional animal keepers outside the provisions of the Act. This reasonable provision has the unfortunate side-effect of leaving a group of animal keepers outside the provision of section 1(6)(a)(iii), which is necessary to allow a LA to prohibit sale or onward movement of DWAs to non-licensed keepers. Whilst, in the case of zoos and laboratories, this is now considered unlikely to happen (see Chapter 9), the same cannot be said of circuses or pet shops. Some LAs have tried to control pet shop sales by adding conditions to the pet shop licence prohibiting keeping or sale of DWAs. Unfortunately, the provision to apply conditions under the Pet Animals Act is substantially narrower than under DWAA, and conditions can only be applied to serve the objectives specified, namely animal welfare. Conditions about DWAs are probably, therefore, unlawful despite being applied by 49% of responding LAs (see Chapter 5). Seven LAs recommended the cancellation of the exemption for pet shops and we believe that this would be appropriate, unless the Pet Animals Act were to be altered to control the sale of DWAs. In the event, it seems that sales of DWAs from pet shops are now extremely low and thus the vast majority of pet shops would not be affected at all by this change.

Somewhere in the DWAA there is a need for a clause making sale, gift or otherwise transferring responsibility of a DWA (by anyone) to an unlicensed keeper an offence under the Act. The need for this was highlighted by the wolf hybrid review¹⁴⁶, and is one of the major regulatory defects of the Act.

Removal of the exemption for circuses under this section would seem to us to achieve relatively little, and the problem of circuses is best dealt with by other means (see Chapter 13). The definition of circus in section 7(4) could be usefully reworded in the light of the South Kesteven v Mackie and others judgement.

Our recommended exemption of farmed species might be achieved by including an exemption under this section, with an interpretation in section 7(4). Alternatively this provision could be added to the Schedule, making it rather more flexible.

Modification of the Schedule - section 8

The power of the Secretary of State to alter the listing of animals seems to us to have valuable inherent flexibility and should not be changed, or replaced by a statutory definition of dangerous. However, there is an obligation for the SoS to act reasonably in this regard and, we believe, to have a clear and consistent policy to guide decisions, which should probably be published (as in the Animals (Scientific Procedures) Act 1986). In any event, the Freedom of Information Act 2000 may require such matters to be put in the public domain. This policy cannot include amongst its criteria animal welfare, as the primary intention of the Act and the reason for which the SoS has been given power to list animals is to safeguard public safety. The keeping of a large number of

¹⁴⁶ Cusdin, P.A. and Greenwood, A.G. (1999) The Keeping of Wolf Hybrids in Great Britain. DETR/RSPCA. Unpublished

species for many years without any objectionable evidence that they pose a threat to public safety may be sufficient to make their sudden listing unreasonable (e.g. constrictor snakes)¹⁴⁷.

We believe that the SoS should be prepared to look at the Schedule more frequently, perhaps at specified intervals, to ensure that no taxonomic or other errors have accumulated, and to allow more rapid changes. It took 5 years for some seriously venomous snakes to be added, even after incidents had been reported (Chapter 3).

Summary of Chapter 16

A number of areas have been uncovered by our study which may be improved by altering the Act or providing guidance. These are summarised below:

- A provision needs to be made in the Act for the owners of corporate-owned animals, as well as the licensee, to be held accountable
- A provision is required for a power of entry by LAs to unlicensed premises on reasonable suspicion of an offence
- The powers of seizure and disposal of an animal must be reviewed in light of the provisions of the Human Rights Act 1998
- It should be made an explicit offence to transfer a DWA, by any means, to an unlicensed keeper
- A clear policy for inclusion on the Schedule should be developed and published by the SoS
- The exemption from the Act for pet shops serves no useful purpose, and should be removed
- The meaning of "circus" in s.7(4) of the DWAA should be updated, to reflect the *S. Kesteven v Mackie* 1999 judgement
- The Schedule should be kept under review and should be regularly re-evaluated
- Specialist vets should be used
- There should be a standard veterinary inspection form
- Guidance should be provided to LAs on the "72 hour rule"
- Guidance is required by LAs on the administration of the Act
- Guidance is required by LAs on the licensing of corporate-owned animals
- Guidance is required on the fees LAs may charge

¹⁴⁷ Compared with previous decisions on ferrets (see Chapter 3)

17. Review of 1984 (Modification) Order Schedule

Introduction

In carrying out a detailed review of the Schedule, we have been mindful of a number of principles.

- A.** In exercising his power to alter the scope of the Act by enlarging or diminishing the Schedule, the law requires that the Secretary of State must be able to demonstrate that he is exercising his power reasonably and in accordance with the purpose of the legislation. In order to meet these requirements, we consider that the SoS should be able to demonstrate a clear and consistent policy in deciding which animals are to be included in the Schedule. To ensure that the way in which he exercises his powers under the Act are consistent and well-informed, we recommend that he should be assisted by a scientific advisory group. Any proposals for change should be put out to consultation prior to any formal decision. It is appropriate for the SoS to keep the Schedule under review. Central to establishing a clear policy is the need for the Department to develop a working definition of a "dangerous wild animal".
- B.** There are three major tendencies in legislation which we see as influencing the way this Act, and others, are implemented and interpreted. The first of these is a tendency for the Courts, when interpreting and applying the law, to have regard to Parliament's original intention in enacting the legislation. We have dwelt at some length on the original intentions of Parliament regarding the DWAA and the way in which these intentions have been interpreted by successive administrative Departments (Home Office, DoE, DETR). The second, and opposing, tendency is for legislation to be "hijacked" for unintended purposes, or for the emphasis of its implementation to be subtly changed to use it to achieve other perceived gains. Existing legislation is often seen to be inadequate in promoting animal welfare, and welfare groups such as RSPCA are quite open about relying on any available legislation (such as DWAA, CITES) to achieve welfare ends. In our view, the Department's change in policy in using the DWAA to embrace welfare issues has been counterproductive, in that the addition of a number of species to the Schedule not generally perceived (nor even generally agreed by experts) to be dangerous reduces respect for the Act (see Chapters 3 and 6) and leads to widespread non-compliance (See Chapter 6). Further, it seems likely that the successful "protection" of a few exotic species under DWAA mitigates against any opportunity to establish purpose-designed legislation to protect all exotic species from maltreatment in private hands, or the serious and workable amendment of more appropriate legislation (e.g. the Pet Animals Act) to achieve that end. The third tendency to be considered is the general replacement in society of proscription by risk assessment, as a basis for achieving appropriate control of risk. It is appropriate for formal risk assessment to be used at least for selection of species for the Schedule. The use of individual risk assessment must be balanced by the need for a clear general policy, but the two are not incompatible.

In our view, any alterations to the Schedule need to bear all these points in mind, in addition to other general considerations such as avoiding encroaching onto areas covered by other legislation and lowering burdens on business and alternative farming enterprise.

Definition of dangerous wild animal

Four definitions of "dangerous (wild) animal" are available for consideration:

(i) PARLIAMENT'S DEFINITION

The closest Parliament came to a definition in debate was that the specified animals should be "*universally recognised as dangerous*", "*so obviously dangerous*" and "*seriously dangerous*"

(Chapter 3). The clear intention was for the Schedule to be limited to species capable of and likely to seriously injure human beings if they escaped and the 1976 Schedule largely reflected that intention.

(ii) ANIMALS ACT 1971

This Act provides the only legal definition of a dangerous species, as being (a) not commonly domesticated in the British Isles; and (b) one whose fully grown animals normally have such characteristics that they are likely, unless restrained, to cause severe damage or that any damage they may cause is likely to be severe¹⁴⁸. The function of this Act is to establish a strict civil liability for damage by animals, not to control keeping. Nevertheless, this definition was available in 1976 and could have been used by Parliament, as it clearly seeks to establish a similar level of risk as was intended under DWAA.

(iii) DoE ADVISORY COMMITTEES 1981 AND 1983

These groups established as a criterion of danger to the public "the capability of an animal to injure a neighbour's child whether following an escape into the next door garden or from visits by the child to the house where the animal was kept", but without defining the level of injury. Guidance as to the level of injury considered serious may be taken from Dr. Brambell's criteria of tom cats, butting goats and wasp stings (see Chapter 3). Clearly this threshold of risk and unacceptable injury is much lower than that set by Parliament or by the Animals Act 1971, and represents a continuing change in the background policy of the Departments.

(iv) DANGEROUS ANIMALS CATEGORISATION (ZOO LICENSING ACT 1981, REVISED STANDARDS OF MODERN ZOO PRACTICE)

Animals are categorised as to the level of risk they pose if they come into contact with the public. The level of risk is not quantified but important ideas are introduced. Thus Category '1' (Greater Risk) includes "Those kinds of animals which, by their natural ferocity and their natural ability to cause harm.." This is contrasted with Category '3' (Least Risk): "Those kinds of animals which are either not naturally ferocious or are not able to inflict appreciable injury, or both.." The background to this is outlined in Dr. Brambell's memorandum to the FZG¹⁴⁹ which categorises the risk (i.e. "dangerousness") as a function of "ferocity" (the propensity to attack) and "injuriousness" (the consequences of injury or level of armament). A practical result of adopting this categorisation has been the exposure of the visiting public in zoos, without barriers and without harm, to species which are on the DWAA Schedule, such as lemurs, squirrel monkeys, tamarins and kangaroos.

In order to return in some measure to the original intention of Parliament to protect public safety rather than to encompass welfare, disease or "unsuitability" as criteria for listing, we propose that DEFRA adopt a policy definition of "dangerous wild animal" based on a "mathematical" function of "ferocity" x "armament". These are consistent characteristics of adult members of species (as opposed to disease which may affect some individuals and not others). As examples, venomous snakes may be so seriously armed (i.e. lethal) that, despite their relative lack of natural ferocity except when cornered or disturbed, they are as dangerous as a large feline. This contrasts with sloths or capybaras which, although equipped with big claws and large teeth, will never attack people unless they try to pick them up. Some of the unlisted scorpions, such as the emperor scorpions, are large and very aggressive but carry insufficient poison to do any serious harm to a human. To a degree, application of any criteria of "dangerousness" involves a degree of subjectivity, but we believe "ferocity" for most species is well documented, and "armament" is relatively easy to identify. The level of "acceptable injury" has to be related to common risks in the everyday environment.

¹⁴⁸ Animals Act 1971 Section 6 (2)

¹⁴⁹ National Federation of Zoological Gardens of Great Britain and Ireland. Memorandum to Council 18 Feb 1991

Taxonomy

If the 1984 Schedule were to be retained as it stands, minor changes would be required to the lists of species to bring them up to date. The first list of scientific names is most important as it provides the definition of dangerous animals for legal purposes. Changes proposed here are based on the advice of two experts¹⁵⁰ and a standard mammal species reference¹⁵¹.

(i) CHANGES TO SCIENTIFIC NAMES (note that it is usual to write genus and species names in italics).

Marsupials

The scientific name of the Tasmanian devil is now *Sarcophilus lanianus*.

Primates

"Indriidae" is now spelt "Indridae"

"Hylobatidae" is now reinstated for gibbons and siamangs and all great apes are in "Hominidae". These two families replace "Pongidae". Genus *Homo* will have to be excepted!

Edentates

Sloths are now in two families, Bradypodidae and Megalonychidae.

Carnivores

Pandas are now in Ursidae. Ailuropodidae should be deleted.

Under Canidae, *Dusicyon* is reserved for an extinct species. *Pseudalopex*, *Cerdocyon* and *Atelocyon* should be substituted to cover the South American canids.

Urocyon (North American foxes) have been omitted from the excepted genera, but were probably intended to be included as "foxes".

Under Mustelidae, the otter genus *Lutrogale* has been omitted (if the list is supposed to include all otters except the European). *Amblonyx* has been separated from *Aonyx* and the North American otter has reverted to *Lontra* from *Lutra*, so *Amblonyx* and *Lontra* need adding to the list.

Viverridae will have to be expanded to include the genus *Civettictis* if African civets are intended to be included (This is an omission, not a new classification).

Even-toed ungulates

The domestic goat is *Capra hircus*, differentiated from *Capra aegagrus*, the wild goat. The listing of excepted animals would read better as "...of the genus *Capra* and the genus *Ovis*", thereby covering any domestic form of sheep or goat.

Reptiles

The genus *Atractaspis* (mole vipers) is now in a separate family Atractaspididae and no longer in Colubridae.

(ii) CHANGES TO COMMON NAMES

Primates

All three gentle lemurs are now in *Hapalemur*, so the exception can be summarised as "gentle lemurs are excepted". Hylobatidae will have to be explained as "gibbons and siamangs". Hominidae will have to be explained as "anthropoid apes, including chimpanzees, orang utan and gorillas".

¹⁵⁰ A. Kitchener, National Museums of Scotland and W. Wuster, University of Wales

¹⁵¹ Wilson, D.E. & Reader, D.N. (Eds) (1993) Mammal Species of the World. A Taxonomic and Geographic Reference. 2nd Edition. Smithsonian Institute, Washington

Edentates

Bradyrodidae will have to be explained as "three-toed sloths" and the new family Megalonychidae as "two-toed sloths".

Carnivores

Mustelidae should exempt the oriental small-clawed otter and North American otter unless *Amblonyx* and *Lontra* are added to the scientific list.

Ursidae will have to be extended to include "bears and pandas".

"African civets" should be removed if *Civettictis* is not added.

Even-toed ungulates

The exemptions should include "domestic buffalo".

Reptiles

If Atractaspididae is to be added as a separate family, the explanation will have to be the "mole vipers (also known as stiletto snakes)", and the explanation for Colubridae should then begin "Certain rear-fanged venomous snakes..."

Clearly, using scientific names as the definitive list is the most appropriate method, but there needs to be either more frequent review of the Schedule to keep this up to date (each change requiring a Modification Order), or some other mechanism designed to allow such changes where these are purely administrative.

Proposed revised Schedule (incorporating taxonomic changes)

Scientific Name	Common Names	Changes
Mammals		
<u>Marsupials</u>		
Dasyuridae of the species <i>Sarcophilus laniarius</i>	Tasmanian devil	Taxonomic
Macropodidae of the species <i>Macropus fuliginosus</i> , <i>Macropus giganteus</i> , <i>Macropus robustus</i> and <i>Macropus rufus</i>	Grey kangaroos, the euro, the wallaroo and the red kangaroo	No change
<u>Primates</u>		
Lemuridae except the genus <i>Hapalemur</i>	Large lemurs (gentle lemurs are excepted)	Taxonomic
Indridae of genera <i>Propithecus</i> and <i>Indri</i>	Sifakas and Indri (woolly lemur is excepted)	Deletion of <i>Avahi lasiger</i> (the woolly lemur)
Callitrichidae of the species of the genera <i>Leontopithecus</i> and <i>Saguinus</i>	Tamarins	Delete
Cebidae except the genera <i>Aotus</i> , <i>Callicebus</i> and <i>Saimiri</i>	New World Monkeys including capuchin, saki, uacari, howler, spider, woolly and woolly spider monkeys. (Owl monkeys, titis and squirrel monkeys are excepted)	Deletion of <i>Aotus</i>, <i>Callicebus</i> and <i>Saimiri</i>
Cercopithecidae	Old-world monkeys (including baboons, the drills, colobus monkeys, the gelada, guenons, langurs, leaf monkeys, macaques, the mandrill, mangabeys, the patas and proboscis monkeys and the talopoin)	No change
Hylobatidae	Gibbons and siamangs	Taxonomic
Hominidae except the genus <i>Homo</i>	Anthropoid apes, including chimpanzees, orang utan and gorillas	Taxonomic
<u>Edentates</u>		
Bradypodidae	Three-toed sloths	Taxonomic
Megalonychidae	Two-toed sloths	Delete all sloths
Dasyopodidae of the genus <i>Priodontes</i>	Giant armadillo	Taxonomic
Myrmecophagidae of the genus <i>Myrmecophaga</i>	Giant anteater	Taxonomic
<u>Rodents</u>		
Erithizontidae of the species <i>Erithizon dorsatum</i>	The North American porcupine	Delete

Hydrochoeridae	The capybara	Delete
Hystricidae of the species of the genus <i>Hystrix</i>	Crested porcupines	Delete
<u>Carnivores</u>		
Ailuropodidae (Ailuridae)	The giant panda and the red panda	Reclassified as Ursidae
Canidae of the genera <i>Canis</i> (except <i>Canis familiaris</i>), <i>Chrysocyon</i> , <i>Cuon</i> , <i>Lycaon</i> and <i>Speothos</i>	Wild dogs, wolves, jackals, maned wolf, bush dog, dhole (excepts the domestic dog, foxes and the raccoon-dog)	Taxonomic and re-phrasing
Felidae except the species <i>Felis catus</i>	The bobcat, caracal, cheetah, jaguar, lion, lynx, ocelot, puma, serval, tiger, and all other cats (the domestic cat is excepted)	No change
Hyaenidae except the species <i>Proteles cristatus</i>	Hyaenas (except the aardwolf)	No change
Mustelidae of the genus <i>Amblonyx</i> , <i>Aonyx</i> , <i>Arctonyx</i> , <i>Enhydra</i> , <i>Lontra</i> , <i>Lutra</i> (except <i>Lutra lutra</i>), <i>Lutrogale</i> , <i>Melogale</i> , <i>Mydaus</i> , <i>Pteronura</i> and <i>Taxidea</i> and of the species <i>Eira barbara</i> , <i>Gulo gulo</i> , <i>Martes pennanti</i> and <i>Mellivora capensis</i>	Badgers (except the Eurasian badger), otters (except the European otter), tayra, wolverine, fisher and ratel (otherwise known as the honey badger)	Taxonomic
Procyonidae	Cacomistles, raccoons, coatis, olingos, the little coatimundi and the kinkajou	Delete
Ursidae	Bears and pandas	Taxonomic
Viverridae of the genus <i>Civettictis</i> and <i>Viverra</i> and of the species <i>Arctictis binturong</i> and <i>Cryptoprocta ferox</i>	The African, large-spotted, Malay and large Indian civets, the binturong and the fossa	Taxonomic
<u>Pinnipeds</u>		
Odobenidae	Walrus	No change
Otariidae	Fur seals and sea lions	No change
Phocidae except <i>Phoca vitulina</i> and <i>Halichoerus grypus</i> , <i>Phoca hispida</i> , <i>Phoca groenlandica</i> , and <i>Cystophora cristata</i>	True seals and elephant seals (except common, grey, ribbon, harp and hooded seals)	Deletion of Northern seals
<u>Aardvark</u>		
Orycteropidae	The aardvark	No change
<u>Elephants</u>		
Elephantidae	Elephants	No change
<u>Hyraxes</u>		
Procaviidae	Tree and rock hyraxes (otherwise known as dassies)	Delete all hyraxes

Odd-toed ungulates

Equidae, except the species <i>Equus asinus</i> , <i>Equus caballus</i>	Asses, horses and zebra (the donkey and domestic horse are excepted)	Taxonomic (Hybrids of excepted species need not be included)
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Rhinocerotidae	Rhinoceros	No change
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Tapiridae	Tapirs	No change
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Even-toed ungulates

Antilocapridae	The Pronghorn	No change
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Bovidae (except any domestic form of the genera <i>Bos</i> , <i>Bubalus</i> , <i>Capra</i> and <i>Ovis</i>)	Antelopes, bison, buffalo, cattle, gazelles, goats and sheep (domestic cattle, buffalo, goats and sheep are excepted)	Taxonomic
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Camelidae of the genus <i>Camelus</i>	Old World camels	Delete all New World camelids
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Cervidae of the species <i>Alces alces</i> , and <i>Rangifer tarandus</i> , except any domestic form of the species <i>Rangifer tarandus</i>	The moose or elk and the caribou or reindeer (the domestic reindeer is excepted)	No change
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Giraffidae	The giraffe and the okapi	No change
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Hippopotamidae	The hippopotamus and the pygmy hippopotamus	No change
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Suidae, except any domestic form of the species <i>Sus scrofa</i>	Old World pigs (including the wild boar and the wart hog) (the domestic pig is excepted)	No change
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Tayassuidae	New World pigs (otherwise known as peccaries)	No change
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Hybrids

Any hybrid of a kind of mammal specified in this column where at least one parent is of a specified kind or is not of an excepted kind	Mammalian hybrids of non-excepted kinds	Re-phrased
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Birds

Cassowaries and emu

Casuariidae	Cassowaries	No change
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Dromaiidae	The emu	No change
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Ostrich

Struthionidae	The ostrich	No change
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Reptiles

Crocodylians

Alligatoridae	Alligators and caimans	No change
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Crocodylidae	Crocodyles and the false gharial	No change
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Gavialidae	The gharial (otherwise known as the gavial)	No change
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<u>Lizards</u>		
Helodermatidae	The gila monster and the (Mexican) beaded lizard	No change
<u>Snakes</u>		
Atractaspididae	Mole/burrowing vipers (also known as stiletto snakes or burrowing asps)	Taxonomic
Colubridae of the genera <i>Malpolon</i> , <i>Psammophis</i> , <i>Thelotornis</i> , <i>Dispholidus</i> and <i>Rhabdophis</i> and the species <i>Boiga irregularis</i> and <i>Philodryas olfersii</i>	Rear-fanged venomous snakes (including the moila and montpellier snakes, sand snakes, twig snakes, the boomslang, the red-necked keelback, the yamakagashi (otherwise known as the Japanese tiger-snake)), the brown tree snake and the green boomslang.	Taxonomic Deletion of <i>Boiga dendrophila</i>, the mangrove snake Addition of <i>Boiga irregularis</i> and <i>Philodryas olfersii</i>
Elapidae	Front-fanged venomous snakes (including cobras, kraits, coral snakes, the desert black snakes kraits, mambas, sea snakes and all Australian venomous snakes (including the death adders))	No change
Viperidae	Front-fanged venomous snakes (including adders, pit vipers, lance-headed vipers, the barba amarilla, the bushmaster, the copperhead, the fer-de-lance, moccasins, rattlesnakes and vipers)	No change
<u>Invertebrates</u>		
<u>Spiders</u>		
Ctenidae of the genus <i>Phoneutria</i>	Wandering spiders (also known as "armed" spiders)	No change
Hexathelidae of the genera <i>Atrax</i> and <i>Hadronyche</i>	The Sydney funnel-web spider and its close relatives	Taxonomic
Lycosidae of the species <i>Lycosa raptor</i>	The Brazilian wolf spider	No change - morphologically similar to <i>Loxosceles</i>
Loxoscelidae of the genus <i>Loxosceles</i>	Brown recluse spiders (otherwise known as the violin spiders)	Taxonomic
Theridiidae of the genus <i>Latrodectus</i>	The black and brown widow spiders (otherwise known as the redback spider) and its close relatives	No change
<u>Scorpions</u>		
Buthidae	Buthid scorpions	No change
Scorpionidae of the species <i>Hemiscorpion lepturus</i> and <i>Scorpion maurus</i>	<i>H. lepturus</i> and the Israeli Gold Scorpion (otherwise known as the large-clawed scorpion)	Addition

Establishments keeping the following species for farming purposes only should be exempted from licensing:

<i>Sus scrofa</i> (and hybrids)	- wild boar and wild boar crosses
<i>Struthio camelus</i>	- ostrich
<i>Dromaius novaehollandiae</i>	- emu

Interpretation

“Farming” includes keeping of wild animals for the commercial production of food, wool, skin, hair or feathers.

Explanation of proposed changes

1. Taxonomic changes are explained in the section above.

2. Primates

- (i) Deletion of woolly lemur (*Avali lasiger*). This very small member of the Indridae is not kept privately and represents no threat in terms of ferocity or armament.
- (ii) Deletion of tamarins (Callithricidae). A substantial number of licensed tamarins is held (70). Tamarins are displayed free-range in a number of UK zoos. There are no records of serious incidents and the animals are inquisitive rather than ferocious and poorly armed, having teeth much smaller than those of a domestic cat and not designed for attack. This group is widely considered harmless by keepers and the source is very limited as most are in zoo-controlled breeding programmes.
- (iii) Deletion of owl monkeys, titis and squirrel monkeys. A substantial number of squirrel monkeys are licensed (106). They are displayed free-range in UK and European zoos. There are no records of serious incidents and the animals are inquisitive rather than ferocious. Their canine teeth are smaller than those of a domestic tom cat (5-6mm as opposed to 8-12mm), and their gape is small and they are not designed for attack. Owl monkeys are rarely held or bred and are not imported. They are nocturnal, shy and retiring and poorly armed. Titis have very small teeth, and are not privately held, bred or imported. There is possibly substantial non-compliance with squirrel monkeys.

Retention of other Cebidae - larger species of Cebidae, such as capuchins, are more aggressive and well armed and serious incidents have been recorded.

3. Edentates

Deletion of all sloths (Bradypodidae and Megalonychidae). Although possessing substantial teeth and hooked claws and being capable of biting if handled, sloths are completely non-ferocious and extremely slow moving. There is absolutely no possibility of their ever attacking a human, unless handled or startled.

4. Rodents

Deletion of all rodents (porcupines and capybara). Capybara are large animals with large front teeth but these are designed for gnawing, not for attack. Capybara run away if approached and are not known to attack unless being handled. Porcupines of both Erithizontidae and Hystricidae use their sharp quills as a defence mechanism only. They are incapable of sustaining injury through ferocity or pursuit unless cornered and approached from behind, and give due warning when threatened. (They are not included in the Jersey Law Schedule - see Chapter 14).

5. Canidae

This group had so many exceptions, with some taxonomic anomalies, that it was preferable to list the included rather than the excepted species.

6. Procyonidae

Deletion of whole group. None of the members of this group are large or ferocious. Many of them can be approached in their natural environment when they are habituated to people, and

they have been widely kept as pets for many years with no serious recorded incident. Although better armed, with larger canine teeth, than domestic cats, they are much less ferocious. This is probably the group of mammals with the highest degree of non-compliance, although large numbers are probably not kept as they breed slowly.

7. Phocidae

The grey seal and common seal were originally excepted as native species kept only for rehabilitation. Seal rehabilitators repeatedly (several times a year) rescue other northern seals which have travelled to UK shores and may have been in contravention of the DWAA when working with ribbon, harp and hooded seals. These species are unlikely to be kept for any other purpose and should be deleted for convenience.

8. Hyraxes

The rock and tree hyraxes resemble rodents and are completely non-aggressive and poorly armed. They should be deleted.

9. Equidae

There is no need to include *Equus asinus* x *Equus caballus* as this is a hybrid of two already excepted domestic species.

10. Camelidae

Deletion of New World camelids, guanaco and vicuna. There is no substantial difference in ferocity between these species and the excepted domesticated forms, llama and alpaca. Their armament, in terms of size and teeth is similar. There have been no reported serious incidents with either listed or excepted species and as all are of farming value, they can all be excepted.

11. Hybrids

Difficulties with the definition of a hybrid mammal (hybrids of listed birds and reptiles are not considered likely) have led to a rephrasing. The aim of listing hybrids is twofold - to licence the keeping of hybrids between two listed species (e.g. the lion x tiger cross) and hybrids between a listed and an excepted species, the latter usually being domesticated. Difficulties in defining multi-generation hybrids has led DETR and experts to revert to characterising hybrids with domestic animals as "not the excepted species" and therefore listed. The same must apply to an animal, one of whose parents falls into that category, hence the additional wording. The substitution of "mammal specified in this column" for "animal specified in the foregoing column" allows hybrids of hybrids to be included. The wild boar/pig hybrid creates particular difficulties as they are the same species. This difficulty is largely obviated by excepting farmed boar and hybrids.

12. Dromaidae

There seems to be no good case for relisting the rhea, which is only aggressive while defending a nest, which it is unlikely to do when escaped.

13. Colubridae

Deletion of mangrove snake (*Boiga dendrophila*). We have had numerous submissions and assistance from experts in snake poisoning that this snake, although large and sometimes aggressive, is insufficiently venomous to cause harm to man. This is a species from which there have been many recorded bites, but no record of other than mild envenomation. It is probably widely kept unlicensed. Addition of *Boiga irregularis* and *Phylodryas olferrii* is recommended due to records of severe envenomation and death¹⁵².

¹⁵² Weatherall, D.J., Ledingham, J.G.G. & Warrell, D. (1995) Oxford Textbook of Medicine. Oxford University Press, Oxford

14. Scorpionidae

Addition of *Hemiscorpion lepturus* and *Scorpion maurus*. These species are listed by the major reference on scorpions of medical importance¹⁵³ as having caused human fatalities in the wild, and as having some subspecies which may be much more venomous than others. They live in the Near and Middle East and Southern Europe and so would be capable of prolonged survival in the wild in Britain in mild weather. They warrant listing as a potentially serious hazard.

15. Farmed species

We have presented the case for the exception of certain species, when kept for farming only, in Chapter 11. Adding this exception to the Schedule, with an interpretation of "farming", seems the best and most flexible way of dealing with this problem. This would allow the addition of further species more easily than by amending the Act.

Constrictor snakes

We received relatively few submissions about further possible additions to the Schedule. By far the commonest proposal, mainly from local authorities and the Reptile Trust, was for the addition of large constrictor snakes (the reticulated, Burmese and African pythons, the anaconda and the boa constrictor). All the major reptile keeping organisations spoke against this proposal. Arguments for addition relate to a perceived risk of serious attack on humans by very large specimens, supported by a small number of recorded cases of attack from the United States involving captive specimens. There is also a substantial rate of abandonment of specimens to rescue centres when they get too large. Arguments against listing cite the theory that such snakes will only attack and constrict humans (rather than just biting) if they confuse them with food, and that most attacks have resulted from management errors by the owner, or leaving free-roaming snakes in rooms with very young children. The possibly very large number of constrictors being kept in the UK (up to 100,000 suggested, but probably in the low thousands), which have resulted from successful breeding over the past twenty years, is also an issue. It was suggested that listing constrictors would lead to a large degree of non-compliance and abandonment of animals, and that there had been no serious incidents in the UK despite the large number of snakes being kept.

The listing of constrictors has been a contentious issue since the inception of the Act. Parliament opted against, although offering to reconsider, as did all the subsequent reviews, largely on the basis of numbers, lack of incidents and advice from experts. It is difficult to regulate for an animal that grows slowly and, for the early part of its life, is too small to offer a serious threat. Particularly so when the threat is almost entirely confined to the owner's home, as large snakes rapidly become torpid outdoors in the UK climate. The major issue is probably one of welfare, in that large specimens cannot be rehomed, rather than risk to the public.

On balance, we agree that listing constrictors on the Schedule is unlikely to achieve the aims of the Act, as it would probably be ineffective. This position could be reviewed if the measures we have suggested for changes to the Act (sale controls, powers of entry etc.) can be instituted.

Summary of Chapter 17

- The Schedule should be kept under review and should be regularly re-evaluated
- A clear policy for inclusion on the Schedule should be developed and published by the SoS
- We recommend that the Schedule is altered as described in this Chapter (see summary in Annex 6)
- We recommend that **farmed** wild boar, ostriches, and emus are exempted from the Schedule

¹⁵³ Keegan, H.L. (1998) Scorpions of Medical Importance. Fitzgerald Publishing, London

18. Guidance for local authorities

The only guidance issued to LAs by the responsible Department in the 25 years of the Act was the Home Office Circular 112/1976, which was issued prior to the DWAA coming into force. The advice was laid out following the main sections of the Act and described their general meaning and purpose. Most of the advice given was accurate and useful, and still has value today, although some of it needs updating and some areas have been superseded by more recent legislation. An appendix gave guidance on the related aspects of Endangered Species legislation and is no longer relevant. Almost no licensing department we contacted had ever seen this document and copies proved extremely hard to locate!

At a time when changes to the provisions of the DWAA and the species listed in the Schedule are proposed, the issue of new guidance by DEFRA would clearly be appropriate. To a certain extent, this cannot be done until decisions have been taken on the recommendations of the two preceding chapters, but some general points which need attention have emerged during this study.

Licensing provisions - Sections 1 and 2

- (i) Retrospective licensing is not legal. Section 1(1) does not allow any form of keeping without a licence.
- (ii) Parliament expected that LAs would use vets with specialist knowledge of the species to be kept. A list of specialist vets should be drawn up and offered to LAs by DEFRA, or they can be invited to use the Secretary of State's Part 1 list of zoo inspectors.
- (iii) Fees - LAs are only entitled to recover direct and indirect costs of licensing and are not entitled to profit from licence fees, nor to use fees to dissuade applicants.
- (iv) LAs should be recommended to draw up standard application and inspection forms.
- (v) LAs must specify the species and numbers of animals to be kept on the licence. They must also specify additional keepers.
- (vi) LAs must apply the standard conditions specified in Section 1(6). Under 1(7) they should be recommended to apply the standard conditions proposed by the RSPCA (see page 31).
- (vii) LAs should be recommended not to attach a 72 hour condition to a licence except in exceptional circumstances (e.g. to **professional** providers of trained animals for film or television, or where an owner may wish to move temporarily to another home outside the area). It would be preferable if another LA was informed of **any** movement of a DWA into their area for **any** period, and with sufficient notice to ensure that the new premises are secure.
- (viii) In applying the licence to a specified premises, LAs should make clear that this means that transfer of the animal to another keeper (by gift or sale) or to another area permanently, cannot take place without notification and relicensing.

Inspections - Section 3

- (i) Item 16 of the Home Office circular, advising LAs to routinely carry out additional "spot-check" inspections seems to us to be unnecessary advice, although LAs should be aware that they **can** make additional inspections if necessary.
- (ii) Advice on powers of entry will depend on any changes to the Act. However, under existing circumstances, it can be emphasised that LAs have implicit powers of entry for seizure if they are **sure** that an unlicensed DWA is being held, but they must be right about it being there. If the animal is **not** there, the entry would be unlawful.

Seizure - Section 4

- (i) Advice about seizure and disposal will almost certainly have to change, depending on changes to the Act. Appropriate advice on disposal should be sought and LAs reminded that they have a responsibility to ensure that any placing of an animal pays attention to security and welfare, and is only to a licensed person or exempt organisation.

Exceptions - Section 5

- (i) advice needs to be given about the current situation applying to circus winter quarters.

Schedule

- (i) Advice needs to be given about the definition of hybrids.
- (ii) Advice will be needed about the definition of farmed species if these are to be excepted.

Standards for animal keeping

Consideration should be given to the provision of advice on the minimum requirements of the commonly kept species.

Central register of licences

Section 230 of the Local Government Act 1972 allows the Department to request returns of licensing information from LAs. This power should be used by DEFRA to insist that LAs send in annual returns on DWA licensing, in order that a central register of animals may be retained.

Summary of Chapter 18

New guidance must be issued to LAs to replace the Home Office circular issued in 1976. The following subjects should be addressed in any new guidance:

- LAs should be reminded that the intention of Parliament was for them to use a vet with experience in the species they are to inspect
- Advice on locating a specialist vet should be provided
- The minimum conditions and requirements which must be imposed on a licence
- The fees that LAs can legally charge
- The legal position on retrospective licensing
- A recommendation that the "72 hour rule" is only allowed in exceptional circumstances; in normal circumstances there should be **no** movement of DWAs without the appropriate LAs being informed
- Minimum standards for commonly kept species should be provided to LAs
- Powers of entry to unlicensed premises, the licensing of hybrid animals, the exemption of circuses and circus winter quarters, and (if adopted) the exemption for farmed species of wild boar and ratites should be clarified for LAs
- DEFRA should require LAs to make annual returns to a central database of all DWAA licences issued

19. Conclusions

In achieving its original intention, the protection of the public from seriously dangerous wild animals in private hands, the Dangerous Wild Animals Act can be said to have been largely effective. The number of large dangerous carnivores and primates kept privately in Britain is now extremely small, in contrast to other less regulated societies such as the United States, where the problem has increased. The number of incidents reported in the UK is so low as to be unmeasurable. However, there are other factors which may be equally responsible, particularly the imposition of strict CITES controls and changes in the attitude of and legislation controlling zoos. It may simply be that such animals are no longer obtainable by the general public.

One group of seriously dangerous animals, the venomous snakes, have not been successfully controlled, although the number of incidents recorded is, again, very low. In this case, neither importation nor the trade in UK bred specimens are controlled effectively, and the animals are easily hidden. The DWAA, as it stands, is arguably ill-equipped to deal with this situation. There are insufficient powers of entry for LAs, there are no controls on sale, and there is insufficient intelligence to trace unlicensed ownership. Maximum penalties are high but their application by the courts is generally very low, so they cannot be said to be an adequate deterrent. Given that a venomous snake in some circumstances is as dangerous as a hand gun (recovery from even a minor wound may be unlikely), the disparity in legal deterrence is surprising.

The licensing of the largest proportion of species, those which are farmed, is probably 100%. This category of animals has risen from zero to almost 90% of the animals licensed in 20 years, which alone suggests that different treatment may be appropriate. It seems likely that the pressure of other legislation and welfare guidelines have played an equal part in the way in which such animals are maintained, and that farming of wild boar and ratites, at least, could safely be relieved of the secondary licensing burden under DWAA.

The listing of many small primates and carnivores in 1984 seems to have been aimed largely at controlling an increasing market in imported specimens and in dealing with perceived welfare problems involved with the private keeping of these animals. In 12 years since the 1989 review, the numbers of licensed animals in these groups has increased only slowly and importation has almost ceased. There appears to be a significant degree of non-compliance with these species. Despite the fact that the Act incorporates some conditions to protect welfare, there are still a significant number of problems with licensed animals, and so it may be said that DWAA licensing has not been entirely effective in controlling the keeping or welfare of these species. This may be due to two factors: the feeling that the animals are not dangerous and so do not warrant licensing, and the lack of expertise applied to inspections. No useful purpose in terms of public protection seems to be gained by listing obviously low risk species and, we would argue, the perception that their welfare is controlled by listing is not necessarily accurate. This perception, furthermore, may lead to a false impression that exotic pet welfare in general is adequately controlled and may reduce acceptance of the idea that more general efforts are needed to protect the welfare of all non-domestic pets. De-listing of low risk species from DWAA should go hand-in-hand with an examination of the most appropriate alternative way of achieving this protection which, we suggest, may best be achieved by education through sale outlets, rather than by licensing. Those species sufficiently dangerous to warrant DWAA listing will continue to have their welfare protected if more specialised inspection is instituted and standard minimum conditions are prepared. Removal of farmed animals and all but the more high risk species from the Schedule would make the preparation of guidance for local authorities for their inspection more practicable. This process could be undertaken by DEFRA, the Health and Safety Executive or the Chartered Institute of Environmental Health, or by commissioning experts.

We believe that weaknesses in the Dangerous Wild Animals Act can be rectified, by appropriate alteration of the Act, the Schedule and the guidance given to local authorities. As a corollary, the general welfare of exotic pet species can be given a higher profile.

20. Table of Recommendations.

Problems which could be solved largely through improved guidance notes.

Problem identified	Recommended solution(s)	Reason/Notes
Difficult to ascertain previous convictions and suitability of an applicant	Require public notification of a licence application. Provide clear guidance to LAs on what criteria to apply to an applicant	Opens up wider sources of information about an applicant. LAs need set criteria to be able to assess an applicant's "suitability".
Unlawful retrospective licences have been granted to new applicants by some LAs	Clarify the situation on retrospective licences by re-wording the Act, or by providing guidance to LAs.	LAs require clear guidance on when a retrospective licence may legally be granted
Inexperienced veterinary surgeons have been used to perform DWAA inspections	Provide guidance to LAs on specialist vets, or change Act to require that only specialist vets be used.	Assist LAs in locating a specialist vet. Ensures that inspections are performed in a competent, knowledgeable manner.
The failure of some LAs to apply mandatory conditions to licences	Provide guidance to LAs to clarify what information must be entered on a licence.	Ensures that LAs act lawfully when granting licences, and that a LA is aware of the types and numbers of DWAs held under licence in their area.
There is no provision in the Act for animals to be owned by commercial enterprises.	Provide guidance to local authorities on licensing DWAs owned by commercial organisations. Make a specific provision for the directors of a company owning a DWA, in addition to the licence holder, to be personally liable if an animal is kept in contravention of the Act.	Ensures that a named person is responsible for the keeping of a DWA in accordance with the Act.
Inspection/licensing fees vary widely and some are prohibitively high.	Provide guidance to LAs on the provisions of the Act with regard to fees they are lawfully able to charge.	Prevents LAs from acting unlawfully in charging very high fees.
No written standards of care for commonly kept species	Provide public guidance on the minimum standards of care required for commonly kept DWA species	Allow prospective keepers to expect that a licence will be issued if a defined set of standards are met. This will help improve compliance with the Act.
There is no central register of licences	Require local authorities to make annual returns to the government on the types and numbers of DWAs licensed.	Allow the government to monitor the trends in the types and numbers of DWAs held in the UK.
Clarification required on the subject of licensing hybrids, farmed species, pet shops and circuses	Provide written guidance to LAs	Ensure that LAs have a clear understanding of which animals must be licensed under the Act, and under which circumstances an exemption is provided.

Problems identified which involve the Schedule to the Act

Problem identified	Recommended solution(s)	Reason/Notes
There is no public policy on the criteria used to define a Dangerous Wild Animal.	The Secretary of State should put the government policy used to define a DWA into the public domain	Make the government policy on DWAs a public document, to provide transparency.
Schedule requires updating	Add to and remove from the Schedule certain species. Update the taxonomy. (See the summary of our recommendations as Annex 6)	Ensure that only those animals likely to pose a real danger to the public are included in the Schedule. Bring the definitive Latin names up to date to avoid legal dispute.
Schedule has not been regularly reviewed.	Secretary of State should be prepared to regularly review the Schedule.	Ensure that taxonomic or other errors can be rectified, and that animals can be added or omitted as necessary, without delay.
Schedule should be altered to relieve the pressure on commercial farmers	Except farmed wild boar, ostriches and emus from the Schedule	To ease the burden on commercial farmers, and to retain the Act for its intended purpose of regulating the private keeping of DWAs

Problems identified which involve the 1976 Act

Problem identified	Recommended solution(s)	Reason/Notes
There is no provision for a power of entry where a licence has not been applied for.	Revise the Act to provide a power of entry by magistrate's warrant on reasonable suspicion of an offence under the Act.	Allow LAs to investigate allegations of an offence under the Act where a licence application by the alleged keeper has not been made.
Powers of seizure and disposal of animals are provided in the Act, without a right of appeal by the owner.	Review this section to ensure that it is compatible with the Human Rights Act 2000.	Ensure that any decision to retain, dispose of or destroy an animal is not contrary to the Human Rights Act 2000.
Pet shops are exempted from the Act, allowing the unrestricted movement of DWAs from the premises	Cancel the exemption for pet shops, or amend the Pet Animals Act 1951 to control the sale of DWAs.	Ensure that DWAs cannot be sold to unlicensed owners.
No provision in the Act to make it an offence to transfer a DWA to an unlicensed keeper.	Insert a clause to make it an offence to sell, give or otherwise transfer responsibility of a DWA to an unlicensed keeper.	Ensure that DWAs cannot be transferred to unlicensed owners.
"72 hour rule" allows the movement of DWAs without requiring that affected LAs be informed.	Revise the subsection to require 72 hours notice to be given to a LA <i>before</i> an animal is moved from the premises specified in the licence.	Prevents animals being moved from exempt establishments to unsuitable/unsafe premises.
The definition of "circus" in s.7(4) of DWAA has been superseded by a more recent court ruling.	Redefine the meaning of "circus" in the Act, incorporating the ruling of S. Kesteven v Mackie 1999 judgement	Ensure that LAs have a clear understanding of what is meant by "circus" in this context.
Fines imposed for offences under the Act do not provide an effective deterrent	DEFRA to raise our concerns about the level of fines which have previously been imposed with the Magistrate's Association.	Make sure that the courts are aware of the seriousness of an offence under DWAA, and ensure that fines awarded by the courts act as a deterrent.

Annex 1- Copy of cover letter and questionnaire to local authorities

<NAME>
<DEPARTMENT>
<L_A_>
<ADDRESS_1>
<ADDRESS_2>
<ADDRESS_3>
<ADDRESS_4>

16 October 2000

Dear <NAME>

DETR REVIEW OF THE DANGEROUS WILD ANIMALS ACT 1976

Following our review of the keeping of wolf hybrids under the DWA, to which you kindly contributed by completing our questionnaire in 1999, the International Zoo Veterinary Group has been awarded a further contract by the Department of the Environment, Transport and the Regions to comprehensively review the Dangerous Wild Animals Act 1976.

The study will review the licensing process, the guidance provided to local authorities, the schedule of animals covered by the Act, and the effectiveness of the Act in general. We shall also be researching the sale of scheduled animals, and will consider bringing circus winter quarters under the Act.

Initially, we wish to obtain accurate details on the number, species and location of licensed Dangerous Wild Animals in England and Wales. This information was last officially collected by ADAS in 1988. To this end, we would be grateful if you could arrange for the completion of the simple questionnaire attached, returning it by the deadline of 17 November 2000.

If you have any further comments, or require additional details, please contact the undersigned.

Thank you for your attention to this matter,

Yours sincerely,

Penny Cusdin BSc.(Hons), VN
Research assistant

QUESTIONNAIRE

Local Authority <L_A_>

Contact Name

Contact Tel. No E-mail

Please answer all questions 1-7, then continue over page.

1.) **Do you have responsibility for Dangerous Wild Animal Licensing in your authority?**

YES NO

If not, please pass this questionnaire to the appropriate person, and amend above details accordingly.

2.) **Is your department familiar with the workings of the DWA?**

YES, direct experience YES, but no experience NO, not without additional research

3.) **Has your authority issued or renewed any licences to keep Dangerous Wild Animals under the 1976 Act since 1 January 2000 ?**

YES NO HOW MANY ESTABLISHMENTS?

4.) **Has your authority refused an application to keep DWAs during the last 5 years?**

YES NO

5.) **Has your authority ever instigated, or considered instigating, a prosecution under the DWA or has your authority ever confiscated animals under the DWA?**

YES NO

6.) **Has your authority ever licensed individuals under the Performing Animals Act, or had any experience of licensing issues associated with circuses?**

YES, Performing Animals Act licences YES, experience with circuses NO

7.) **If your authority licenses pet shops, do you include any conditions controlling the sale of DWA scheduled animals?**

YES NO SOMETIMES

8.) Please enter details of each current licence:

Name of licensee or licence number	Species held (including hybrids)	Number of individuals of each species held

Please continue on separate sheet if necessary

9.) Can you provide copies of the licences issued, including *or excluding* the owner's personal details, plus details of conditions and fees charged? Please enclose with reply.

Note: This information is valuable, and licensees confidentiality will be respected.

10.) Please use this space to record any further comments you wish to make on the DWA:

END OF QUESTIONNAIRE. THANK YOU FOR YOUR ASSISTANCE.

Please send completed questionnaires to:
P. Cusdin, IZVG, Keighley Business Centre, South Street, Keighley,
West Yorkshire BD21 1AG(Tel 01535 692000)

Annex 2 - List of individuals and organisations invited to comment on this review

Department of the Environment, Transport and the Regions (DETR)
Home Office
Ministry of Agriculture, Fisheries and Food (MAFF)
Institute of Environmental Health Officers
Local Government Association
British Herpetological Society
International Herpetological Society
Pet Care Trust
British Veterinary Association (BVA)
British Veterinary Zoological Society (BVZS)
Royal College of Veterinary Surgeons (RCVS)
National Association of Private Animal Keepers (NAPAK)
Federation of Zoological Gardens of Great Britain and Ireland
National Museums of Scotland
Royal Society for the Prevention of Cruelty to Animals (RSPCA)
Association of British Wild Animal Keepers (ABWAK)
Circus Proprietors Association
ExoticDirect (Insurance company)
Cliverton Limited (Insurance company)
Ramblers Association
Emu and Rhea Association
British Domesticated Ostrich Association
British Bison Association
British Wild Boar Association
Reptile Trust
Professor D. Warrell (John Radcliffe Hospital, Oxford)
Dr. W. Wuster, University of Wales
Professor Theakston, Liverpool School of Tropical Medicine
Amazing Animals (private keepers of film animals)
London Zoo - Paul Pearce-Kelly (invertebrates)
Animal Reception Centre, Heathrow Airport
Ulster Society for the Prevention of Cruelty to Animals (USPCA)
Irish Society for the Prevention of Cruelty to Animals (ISPCA)
Veterinary surgeons via letter in Veterinary Record and Veterinary Times
Animal Defenders
Monkeyworld, Dorset
Private keepers

This list does not name individually private keepers, vets and local authorities consulted for this review.

Annex 3 - Comparative table showing Modifications to the Schedule 1976 - 1984

Dangerous Wild Animals Act 1976 - Schedule and Modification Orders				
FAMILY	1976 Schedule	1977 Mod.	1981 Mod.	1984 Mod.
Ailuropodidae				+
Alligatoridae	+		+	+
Antilocapridae			+	+
Bovidae			+	+
Bradypodidae				+
Buthidae				+
Callithrichidae				+
Camelidae			+	+
Canidae	+	‡	+	†
Casuariidae	+		+	+
Cebidae				+
Cercopithecidae	+		+	+
Cervidae				+
Colubridae				+
Crocodylidae	+		+	+
Ctenidae				+
Dasypodidae				+
Dasyuridae				+
Dipluridae				+
Dromaiidae	+		+	+
Elapidae	+		+	+
Elephantidae			+	+
Equidae			+	+
Erithizontidae				+
Felidae	+		+	+
Gavialidae	+		+	+
Giraffidae			+	+
Helodermatidae	+		+	+
Hippopotamidae			+	+
Hyaenidae			+	+
Hydrochoeridae				+
Hylobatidae	+		+	-
Hystricidae				+
Indriidae				+
Lemuridae				+
Lycosidae				+
Macropodidae				+
Mammal hybrids				+
Mustelidae				+
Myrmecophagidae				+
Odobenidae				+
Orycteropidae				+
Otariidae				+
Phocidae				+
Pongidae	+		+	+
Procaviidae				+
Procyonidae				+
Rheidae	+		-	
Rhinocerotidae			+	+
Sicariidae				+
Struthionidae	+		+	+
Suidae			+	+
Tapiridae			+	+
Tayassuidae			+	+
Theridiidae				+
Ursidae	+		+	+
Viperidae	+		+	+
Viverridae				+
KEY:				
Shaded box indicates a change to the Schedule				
+ indicates the inclusion of a kind to the Schedule				
- indicates the removal of a kind from the Schedule				
‡ indicates that <i>Alopex lagopus</i> (arctic fox) is excepted from Schedule				
† indicates that the raccoon-dog is excepted from the Schedule				

Annex 4 - Summary of 2000 survey of local authorities in England and Wales

Dangerous Wild Animal Licences were granted for the following in 2000:

MAMMALS						Totals
Marsupials						
Tasmanian devil						0
Macropods						0
Primates						
Callithricidae (tamarins)						70
Cebidae	squirrel	capuchin	spider	Other		
	106	114	8	12		240
Cercopithecidae	macaque	vervet	patas	Other		
	34	12	7	14		67
Indriidae						0
Lemuridae						115
Pongidae	chimpanzee	gibbon	ape	gorilla		
	7	5	1	1		14
Other primates (not specified)						149
Edentates						
Bradypodidae						0
Dasypodidae						0
Myrmecophagidae						0
Rodents						
Erithizontidae						2
Hydrochoeridae						3
Hystricidae						9
Carnivores						
Ailuropodidae						0
Canidae						22
Felidae	Tiger	Puma	Small felids	Lion	Leopard	
	10	3	125	5	26	169
Hyaenidae						0
Mustelidae						6
Procyonidae	Coatis	Raccoons	Kinkajou			
	30	30	12			72
Ursidae						0
Viverridae						0
Pinnipedes						3
Elephantidae						1
Perissodactyla						
Equidae	Zebra	Zeedonks		Przewalski horses		15
Rhinocerotidae						0
Tapiridae						5
Hyraxes						0

Aardvark						0
Artiodactyla						
Antilocapridae						0
Bovidae	Bison					125
Camelidae	Camels	Guanaco				
	10	650				660
Cervidae						0
Giraffidae						0
Hippopotimidae						0
Suidae						4554
Tayassuidae						0
<u>BIRDS</u>						
Casuaridae						0
Dromaiidae (emu)						463
Struthionidae (ostrich)						4769
<u>REPTILES</u>						
Crocodylians						50
Venomous snakes						258
Helodermatidae						26
<u>INVERTEBRATES</u>						
Spiders						0
Scorpions						11
GRAND TOTAL						11, 878

Annex 5 - Results of 1988 survey

SUMMARY OF ANIMALS HELD UNDER THE DANGEROUS WILD ANIMALS ACT IN 1988

Species		Individuals	Licences
ARACHNIDA			
Unspecified		30	1
Scorpiones			
Buthid scorpions	<i>Buthidae</i>	10+	2
Araneae			
Various and unspecified spiders		30+	2
REPTILIA			
Crocodilia			
Missisipi alligator	<i>Alligator mississippiensis</i>	2	2
Spectacled caiman	<i>Caiman crocodilus</i>	5	5
Crocodile	<i>Osteolaemus tetraspis</i>	2	2
Serpentes			
Rattlesnakes	<i>Viperidae</i>	8	5
Vipers	<i>Viperidae</i>	17	7
Cobras	<i>Elapidae</i>	2	2
Florida cottonmouth	<i>Agkistrodon piscivorus</i>	1	1
AVES			
Casuariiformes			
Emu	<i>Dromicieus</i>	15	5
MAMMALIA			
Marsupialia			
Walleroo	<i>Macropus robustus</i>	2	1
Wallaby	<i>Macropus sp.</i>	2	1
Primates			
Ring-tailed lemur	<i>Lemur catta</i>	7	2
Lemur	<i>Lemur sp.</i>	3	1
Marmoset	<i>Callithrix sp.</i>	6	2
Golden lion tamarin	<i>Leontopithecus rosalia</i>	2	1
Red-bellied tamarin	<i>Saguinus labiatus</i>	3	3
Cotton-top tamarin	<i>Saguinus oedipus</i>	17	5
Tamarin	<i>Saguinus sp.</i>	16	5
Tamarin, marmoset	<i>Callitricidae</i>	7	1
White-fronted capuchin	<i>Cebus alifrons</i>	5	3
Black-capped capuchin	<i>Cebus apella</i>	29	9
White-faced capuchin	<i>Cebus capuchinus</i>	7	3
Weeper capuchin	<i>Cebus nigrittatus</i>	1	1
Capuchin	<i>Cebus sp.</i>	48	23
Night monkey	<i>Aotus trivirgatus</i>	5	3
Squirrel monkey	<i>Saimiri sp.</i>	138	60
White-faced saki	<i>Pithecia pithecia</i>	2	1
Black spider monkey	<i>Ateles paniscus</i>	2	1
Spider monkey	<i>Ateles sp.</i>	4	2

Crab-eating macaque	<i>Macaca fascicularis</i>	4	4
Moor macaque	<i>Macaca maura</i>	1	1
Rhesus macaque	<i>Macaca mulatta</i>	10	4
Pigtail macaque	<i>Macaca nemestrina</i>	5	4
Barbary macaque	<i>Macaca sylvanus</i>	6	2
Macaque	<i>Macaca sp.</i>	10	7
Hamadryas baboon	<i>Papio hamadryas</i>	1	1
Vervet monkey	<i>Cercopithecus aethiops</i>	5	1
Red-tailed monkey	<i>Cercopithecus ascanius</i>	1	1
Moustached guenon	<i>Cercopithecus cephus</i>	1	1
Diana monkey	<i>Cercopithecus diana</i>	3	1
Red-bellied monkey	<i>Cercopithecus erythrogaster</i>	1	1
Mona monkey	<i>Cercopithecus mona</i>	1	1
De Brazza's monkey	<i>Cercopithecus neglectus</i>	8	2
Spot-nosed monkey	<i>Cercopithecus nictitans</i>	6	2
Lesser spot-nosed monkey	<i>Cercopithecus petaurista</i>	1	1
Guenon	<i>Cercopithecus sp.</i>	2	1
Patas monkey	<i>Erythrocebus patas</i>	2	2
Colobus monkey	<i>Colobus sp.</i>	4	1
Old-world monkey	<i>Cercopithecinae</i>	2	2
Gibbon	<i>Concolor sp.</i>	2	1
Chimpanzee	<i>Pan troglodytes</i>	4	2
Unspecified monkeys	<i>Primate spp.</i>	10	1
Carnivora			
Wolf	<i>Canis lupus</i>	10	5
Himalayan bear	<i>Selenarctos thibetanus</i>	3	2
European brown bear	<i>Ursus arctos</i>	1	1
Raccoon	<i>Procyon lotor</i>	37	19
Coati	<i>Nasua nasua</i>	23	12
Kinkajou	<i>Potos flavus</i>	8	4
Asian short-clawed otter	<i>Aonyx cinera</i>	8	3
Leopard cat	<i>Felis bengalensis</i>	3	2
Caracal	<i>Felis caracal</i>	2	1
Jungle cat	<i>Felis chaus</i>	9	1
Puma	<i>Felis concolor</i>	5	2
Geoffroy's cat	<i>Felis geoffroi</i>	10	1
Indian desert cat	<i>Felis libya ornata</i>	3	1
Ocelot	<i>Felis pardalis</i>	7	4
Serval	<i>Felis serval</i>	3	2
Wild cat	<i>Felis silvestris</i>	3	2
Margay	<i>Felis wiedii</i>	4	2
Cat (unknown exotic)	<i>Felis sp.</i>	3	2
Lynx	<i>Lynx lynx</i>	1	1
Bobcat	<i>Lynx rufus</i>	9	1
Lion	<i>Panthera leo</i>	2	2
Leopard	<i>Panthera pardus</i>	1	1
Proboscidae			
African elephant	<i>Loxodonta africana</i>	1	1
Indian elephant	<i>Elephans paximus</i>	1	1
Elephant	<i>Proboscidae, unknown</i>	1	1
Perissodactyla			
Chapman's zebra	<i>Equus burchelli</i>	3	1
Przewlaski's horse	<i>Equus przewalski</i>	13	2
Grevy's zebra	<i>Equus grevyi</i>	6	2
Zebra	<i>Equus sp.</i>	5	1
Brazilian tapir	<i>Tapirus terrestris</i>	2	1
Tapir	<i>Tapirus sp.</i>	2	1

Artiodactyla			
European wild boar	<i>Sus scrofa</i>	38	3
Llama	<i>Lama glama</i>	7	1
Guanaco	<i>Lama guanicos</i>	26	5
Vicuna	<i>Vicugna vicugna</i>	9	1
Bactrian camel	<i>Camelus bactrianus</i>	1	1
Camel	<i>Camelus sp.</i>	8	3
Muntjac	<i>Muntiacus sp.</i>	8	1
Greater kudu	<i>Trageluphus strepisceros</i>	1	1
Indian water buffalo	<i>Bubalus bubalus</i>	2	1
Yak	<i>Bos grunniens</i>	2	1
Bison	<i>Bison bonasus</i>	26	5
Scimitar-horned oryx	<i>Oryx dammah</i>	1	1
Gemsbok	<i>Oryx gazella</i>	1	1
Addax	<i>Addax nasomaculatus</i>	5	2
Dama gazelle	<i>Gazella dama</i>	1	1
Mouflon	<i>Ovis musimon</i>	8	1

N.B. Some animals listed in this survey were not actually listed in the Schedule.

Annex 6 - Recommended additions and deletions to the 1984 Schedule

To be deleted from the Schedule:

<i>Avahi lasiger</i>	Woolly lemur
Callitrichidae	Tamarins
<i>Aotus</i> sp.	Owl monkey
<i>Callicebus</i> sp.	Titis
<i>Saimiri</i> sp.	Squirrel monkey
Bradypodidae	Three-toed sloth
Megalonychidae	Two-toed sloth
Erithizontidae	North American porcupine
Hydrochoeridae	Capybara
Hystriidae	Crested porcupine
Procyonidae	Cacomistles, raccoons, coatis, olingos, the
little coati mundi and the kinkajou	
<i>Phoca hispida</i>	Ringed seal
<i>Phoca groenlandica</i>	Harp seal
<i>Cystophora cristata</i>	Hooded seal
<i>Dendrohyrax</i> sp. and <i>Heterohyrax</i> sp.	Tree and small rock hyrax
Lama sp and <i>Vicugna</i> sp. vicuna)	All New World camelids (guanaco and
<i>Boiga dendrophila</i>	Mangrove snake

To be excepted in certain circumstances:

<i>Sus scrofa</i> , <i>Struthio camelus</i> and and emus.	Farmed wild boar (and hybrids), ostriches
<i>Dromaius novaehollandiae</i> continue to require a licence)	(Non-farmed animals of these types will

To be added to the Schedule:

<i>Boiga irregularis</i>	Brown tree snake
<i>Philodryas olfersii</i>	Green boomslang
<i>Hemiscorpion lepturus</i>	
<i>Scorpion maurus</i>	Israeli gold scorpion

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Abbreviations used

ABWAK	Association of British Wild Animal Keepers
ARC	Animal Reception Centre, Heathrow Airport, London
BVA	British Veterinary Association
CITES	Convention on International Trade in Endangered Species
DEFRA	Department for Environment, Food and Rural Affairs (formerly DETR)
DETR	Department of the Environment, Transport and the Regions (until June 2001)
DoE	Department of the Environment (until 1997)
DWAA	Dangerous Wild Animals Act 1976
DWA	Dangerous Wild Animal
FAWC	Farm Animal Welfare Council
FZG	Federation of Zoological Gardens
HRA	Human Rights Act 1998
LA	Local authority
MAFF	Ministry of Agriculture, Fisheries and Foods (From June 2001 incorporated into DEFRA)
NAPAK	National Association of Private Animal Keepers
RCVS	Royal College of Veterinary Surgeons
RSPCA	Royal Society for the Prevention of Cruelty to Animals
SoS	Secretary of State
Sp.	Species
ZLA	Zoo Licensing Act 1981
ZSL	Zoological Society of London