

LEGISLATIVE CONSENT MEMORANDUM

Animal Welfare (Sentencing) Bill

1. This Legislative Consent Memorandum is laid under Standing Order (“SO”) 29.2. SO29 prescribes that a Legislative Consent Memorandum must be laid, and a Legislative Consent Motion may be tabled, before Senedd Cymru if a UK Parliamentary Bill makes provision in relation to Wales for any purpose within, or which modifies the legislative competence of the Senedd.
2. The Animal Welfare (Sentencing) Bill (“the Bill”) was introduced into the House of Commons on 5 February 2020. The Bill can be found at: <https://services.parliament.uk/Bills/2019-20/animalwelfare/sentencing/documents.html>
3. A similar bill, the Animal Welfare (Sentencing and Recognition of Sentience) Bill, was introduced in Parliament in June 2019 but was considered fallen following the prorogation of Parliament on 8 October 2019. That Bill was again introduced on 15 October 2019 however the Bill fell following prorogation prior to the December 2019 General Election.
4. The Animal Welfare (Sentencing) Bill is a UK Government backed Private Members’ Bill sponsored by Chris Loder MP. The substantive provisions of the Bill remain unchanged from the Animal Welfare (Sentencing and Recognition of Sentience) Bill, for which a Legislative Consent Memorandum was laid on 19 July 2019.

Policy Objective(s)

5. The stated policy objective is to increase the maximum penalty for specific offences relating to animal cruelty from six months to five years’ imprisonment.

Summary of the Bill

6. The Bill increases the maximum penalty for specific offences related to animal welfare in England and Wales. It does so by extending the current maximum penalty, specified in section 32 of the Act, of six months and/or an unlimited fine to a penalty of five years and/or an unlimited fine. These offences therefore become triable either way, and may be heard in the Magistrates Court or the Crown Court.
7. The draft clauses in this Bill were published by the UK Government for public consultation on 12 December 2017 as part of the Animal Welfare (Sentencing and Recognition of Sentience) Bill. The consultation closed on 31 January 2018 and the summary of responses document published on 7 August 2018. The Department for Environment, Food & Rural Affairs (DEFRA) received 9,084 direct responses to the consultation. 70 per cent

of respondents agreed with the new maximum penalties. In the summary of responses document, the UK Government committed to bring forward the sentencing clauses in a separate Bill.

Provisions in the Bill for which consent is required

Clause 1: Mode of Trial and Maximum Penalty for Certain Animal Welfare Offences

8. Section 32(1) of the Animal Welfare Act 2006 provides that particular specified offences should carry a maximum penalty of 51 weeks imprisonment and/or an unlimited fine.
9. In practice, the maximum penalty is capped at 6 months and/or an unlimited fine. This is because section 32(5) of the Animal Welfare Act 2006 specifies that for all offences committed prior to the commencement of section 281(5) of the Criminal Justice Act 2003, the reference to 51 weeks imprisonment is to be read as a reference to 6 months imprisonment. To date, section 281(5) has not been commenced.
10. Clause 1 of the Bill seeks to amend the Animal Welfare Act 2006 in order to change the maximum penalty available for the following offences only:
 - a. causing unnecessary suffering (section 4);
 - b. carrying out a non-exempted mutilation (section 5);
 - c. docking the tail of a dog except where permitted (section 6(1) and 6(2));
 - d. administering a poison to an animal (section 7); and
 - e. involvement in an animal fight (section 8).
11. The existing maximum penalty, outlined above, is retained if the offender is summarily convicted. However offenders may now receive a higher penalty of up to 5 years imprisonment and/or an unlimited fine if they are convicted on trial by indictment.
12. Magistrates' Courts do not have the power to impose penalties greater than six months. Section 154(1) of the Criminal Justice Act 2003 was to increase the maximum custodial sentence imposable by a magistrate's court to 12 months. Section 154(1) will be repealed by the Sentencing Act 2020 but an equivalent provision is contained in paragraph 24(2) of Schedule 22 to the 2020 Act. Section 32(4A) of the Animal Welfare Act 2006 inserted by clause 1(3) of the Bill will ensure that the appropriate penalties are available to magistrate's courts until the relevant provisions are commence.

Clause 2: Extent, Commencement and Short Title

13. Clause 2 of the Bill provides for the Bill to extend to England and Wales and that the Bill will come into force two months after Royal Assent. This

clause states that the amendments do not apply to offences committed before the provisions of the Bill come into force. The clause also specifies the short title of the Bill.

14. Consent is required for the provisions in Clauses 1 and 2 of the Bill because they fall within the legislative competence of Senedd Cymru and do not relate to reserved matters in Schedule 7A to the Government of Wales Act 2006 as they relate to animal health and welfare.

Reasons for making these provisions for Wales in the Animal Welfare (Sentencing) Bill

15. Animal welfare is a priority of the Welsh Government and it is the view of the Welsh Government that it is appropriate to deal with these provisions in this UK Bill for reasons of timing and coherence. The provisions of the Bill align with the Welsh Government policy objectives regarding the promotion of animal welfare. Taking them forward in this UK Bill will mean that the most serious animal cruelty offences in Wales are punishable at the same level as those in England.

Financial implications

16. There are no direct financial implications for the Welsh Government or Senedd Cymru as a result of this Bill.

Conclusion

17. It is the view of the Welsh Government that it is appropriate to deal with these provisions in this UK Bill as it ensures a comparative sentencing regime across England and Wales, and ensures clarity for enforcement agencies, the Courts and the public.

Lesley Griffiths MS
Minister for Environment, Energy and Rural Affairs
February 2021