

SUPPLEMENTARY LEGISLATIVE CONSENT MEMORANDUM

(MEMORANDUM NO.2)

ANIMAL WELFARE (KEPT ANIMALS) BILL

1. This Supplementary Legislative Consent Memorandum (LCM) 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 (Kept Animals) Bill (“the Bill”) was introduced in the House of Commons on 8 June 2021. On 10 November 85 amendments (83 UK Government amendments and 2 non-government amendments) were tabled for consideration at Commons Committee stage. The UK Government amendments were agreed on 16 and 18 November and a number of these make provision falling within the legislative competence of the Senedd.
3. The 18 November 2021 print of the Bill includes the amendments and can be found at: <https://bills.parliament.uk/bills/2880>.
4. It was not possible to lay this LCM within the normal two weeks prescribed in SO29, owing to the volume and complexity of the amendments tabled.

Policy Objectives of the Bill

5. The UK Government’s stated policy objective for the Bill is to make provisions to deliver a number of reforms relating to the welfare of kept animals including farm animals, companion animals and kept wild animals.

Summary of the Bill

6. The Bill is sponsored by the Department for Environment, Food and Rural Affairs.
7. Further information about the Bill can be found within the first LCM (which related to Parts 2 to 5) laid on 22 June 2021.

<https://business.senedd.wales/mglIssueHistoryHome.aspx?lId=37518>

8. The Bill includes provisions to deliver a number of reforms relating to the welfare of kept animals, including farm animals, companion animals, and kept wild animals.
9. For farmed animals, the Bill prohibits the export of live cattle, sheep, pigs and goats and equines for slaughter, including for fattening for subsequent slaughter.
10. The Bill repeals and replaces the Dogs (Protection of Livestock) Act 1953 in respect of England and Wales with a new set of provisions to address the issue

of dogs attacking or worrying livestock. The Bill broadens the definition of livestock which are afforded protection and the areas in which the powers apply (see paragraphs 16 to 20 below). It also incorporates a range of ancillary orders that the Courts may make to provide effective tools to address reoffending in the most serious cases of livestock worrying.

11. For companion animals, the Bill addresses the issue of illegal puppy imports by introducing an enabling power to apply restrictions to imports of certain pet animals (dogs, cats and ferrets) on welfare grounds through secondary legislation. The Bill also decreases the number of pets (dogs, cats and ferrets) that can travel in a single non-commercial movement.
12. For kept wild animals, the Bill prohibits the keeping, breeding, sale and transfer of primates without a specific primate licence to ensure that they are kept to a high welfare standard that reflects their specific welfare needs.
13. The Bill amends the Zoo Licensing Act 1981 to increase penalties for non-compliance and provide local authorities with better tools for enforcement to ensure zoo operators comply with NAFW¹ Standards of Modern Zoo Practice and also amends the 1981 Act to enable the Welsh Ministers to specify the standards for the conservation requirements that zoos must comply with, which will provide the means to ensure that zoos adopt strengthened conservation requirements and that these requirements can be updated more often.

Update on position since the publication of the first Legislative Consent Memorandum

14. The Welsh Government laid a LCM on 22 June 2021, based on the Bill as introduced into Parliament (House of Commons) on 8th June 2021. The Memorandum confirmed the Welsh Government was generally supportive of the Bill as introduced subject to a number of issues detailed below.
15. As mentioned in the LCM laid on 22 June 2021, the provisions in Part 1 of the Bill, as introduced, relating to primates did not apply to Wales. In discussion with Defra, the Welsh Government indicated that it would be content for the provisions to be extended to apply in relation to Wales on the understanding that the Welsh Ministers would be given powers in relation to Wales. As detailed below, Part 1 now applies to Wales in line with Welsh Government's request so that powers conferred on the Welsh Ministers in relation to Wales are equivalent to the Secretary of State's powers in relation to England. These powers will assist Wales in bringing forward a licensing scheme for primates kept as pets to ensure their welfare conditions are safeguarded and also ensure the enforcement procedures are aligned at the borders with England.

¹ National Assembly for Wales. The function of specifying standards of modern zoo practice are now functions of the Welsh Ministers on the basis of the following; The functions of the Ministers under section 9 (power to specify standards of modern zoo practice) of the Zoo Licensing Act 1981 so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). Those functions were then further transferred to the Welsh Ministers by section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).

16. Welsh Government considers the clauses in Part 2 of the Bill (Dogs Attacking or Worrying Livestock) make provision with regard to a devolved matter on the basis that they relate to animal welfare / agriculture. The LCM laid on 22nd June 2021 indicated that Welsh Government considers the clauses in Part 2 of the Bill make provision with regard to a devolved matter and on that basis consent to these provisions would be required.
17. The Minister for Rural Affairs and North Wales, and Trefnydd wrote to the Secretary of State for Environment, Food & Rural Affairs seeking amendments to the definition of 'livestock' and 'relevant livestock' in Part 2 of the Bill to the effect that powers be conferred on the Welsh Ministers in relation to Wales, rather than the Secretary of State, as currently drafted (clauses 37(5) and 38(3) respectively). Consequential amendments to clauses 50 (regulations) and 51 (commencement) were also requested to the effect that powers are conferred on the Welsh Ministers in relation to Wales.
18. However, the Secretary of State for EFRA responded confirming the view that the provisions in Part 2 relate to a reserved matter in that they fall within the 'dangerous dogs and dog dangerously out of control reservation' (paragraph 44 to Schedule 7A to GOWA) and has not agreed to amend the clauses in the way requested.
19. In relation to Part 2, the power to amend the definition of "relevant livestock" in clauses 37(5) and 38(3) respectively (as currently drafted in the Bill) and the power to make consequential, transitional and commencement provision in clauses 50 and 53 are conferred on the Secretary of State only.
20. At this stage, Welsh Government is minded to recommend to the Senedd that the Legislative Consent Motion is denied in part, in relation to Part 2: Dogs Attacking or Worrying Livestock.
21. Under Part 3, Clause 49 of the Bill defines an "appropriate national authority." In the Bill, as introduced, that clause (which was then clause 48) specified that the "appropriate national authority" for Wales for the purpose of Part 3 regulations is (1) the Welsh Ministers or (2) the Secretary of State acting with Welsh Ministers consent. This creates concurrent functions. Consequently, Welsh Government requested a 'carve out' for the need for Minister of the Crown consent if the Senedd proposed to remove any concurrent powers in a future Senedd Bill. Clause 51 is a new clause which provides the 'carve out' amending Schedule 7B to the Government of Wales Act 2006 so as to dis-apply certain restrictions in that Schedule in relation to functions conferred by or under the Bill. The provisions in Clause 51 relate to matters which are reserved by virtue of (Paragraph 7 of Schedule 7B to GOWA. Therefore, it is the Welsh Government's view that consent is not required in respect of Clause 51.
22. Welsh Government would ordinarily not wish to see the creation of new concurrent functions. The nature of Clause 41 (Export of livestock) and Clause 46 (Importation of dogs, cats and ferrets) is such that a GB-wide approach is likely to be considered appropriate for reasons of consistency and practicality to ensure a

uniformed approach to export and import controls at borders. Having an approach that differs for Wales, or any other part of GB, would potentially cause difficulties for animal owners/keepers and enforcement agencies.

Provision tabled by the UK Government to the Bill at Committee Stage for which consent is required

23. The amendments to the Bill requiring Senedd consent are described below with details of the amendments to the Bill shown in the Annex. The clause numbering referenced below is consistent with the current version of the Bill published on 18 November 2021.

Part 1: Primates

24. As mentioned above, Part 1 applies to Wales by virtue of amendment 3. The clauses in Part 1 and the amendments are described below.

It is the Welsh Government's view that consent is required to the Clauses in Part 1 of the Bill and to the amendments to those Clauses, detailed below, on the basis that they make provision with regard to the devolved matter of animal welfare insofar as they apply to Wales.

The inclusion of Wales within the Bill, as published, will enable Welsh Ministers to bring forward a licensing scheme in relation to the keeping of a primate in a domestic setting and empower Local Authorities to enforce any new animal welfare legislation in line with the Animal Welfare Act 2006, which is fully devolved to Wales.

The inclusion of Wales will also negate any licensing disparity between England and Wales and benefit enforcement along the borders of any new licensing requirements.

The keeping of a primate in a domestic setting will require the keeper to meet the animal welfare standards required via a licensing regime.

Clause 1: Prohibition on keeping primates without a licence

A key amendment applying to Part 1 of the Bill enables Welsh Ministers to bring forward secondary legislation to operate in Wales. Functions under Part 1 in England which are conferred on the Secretary of State will, in Wales, be conferred on Welsh Ministers as the "appropriate national authority".

Clause 1 introduces a prohibition on keeping primates without a licence. This provides that a person may not keep a primate unless authorised to do so under licence. Anyone keeping a primate without a licence commits an offence and is liable to a fine. Subsection 3 sets out that the requirement for a licence does not apply where licences are in force under the Zoo Licensing Act 1981 or under section 2C of the Animals (Scientific Procedures) Act 1986.

Clause 2: Primate licences, and

Clause 3: Licensing standards and other requirements

Clauses 2 and 3 set out the details and conditions of primate licences. Under Clause 2, a licence would last for 6 years and stipulate the species and number of primates permitted to be kept by the licence holder and Clause 2 is amended with effect that a primate licence issued in Wales, must specify the premises to which it relates.

Clause 3 is amended to replace references to the Secretary of State with an “appropriate national authority” (which includes Welsh Ministers). Clause 3 provides that the appropriate national authority must, by regulations, set standards for the care and management of primates to be kept under licences. Subsection (2) provides that licensing standards may include standards relating to a number of matters including the environment and accommodation primates need, their diet, and provision for their behavioural needs, their handling, their transportation and standards which protect them from pain, suffering, injury and disease.

Subsection (3) provides that regulations made by an appropriate national authority may make provision imposing requirements on the holder of a primate licence relating to information to be supplied to a Local Authority (LA) in relation to any primate kept under the licence (for example, where a primate dies, gives birth or is transferred to another person) and microchipping of any primate kept under the licence.

Subsection (4) imposes a consultation requirement on the appropriate national authority before making regulations under subsection (1).

Clause 4: Applications

Clause 4 is consequential on Clauses 2 & 3 (as amended) and provides details of the license application process including the information required from applicants. People under the age of 18 would not be able to apply for a licence, nor would anyone disqualified from keeping primates.

Clause 5: Determination of applications

Clause 5 sets out how applications for licences will be determined. Licences are to be issued by LAs (as is currently the case under the Zoo Licensing Act 1981) and the process is to include the use of veterinary surgeons to determine an applicant’s ability to meet the licensing standards and therefore to hold a licence. Clause 5 is amended to the effect that a LA is to take previous breaches of the licensing standards, and other relevant conduct, into account when making determinations under clause 5(2) and (3).

If, following a veterinary inspection, the LA is satisfied that, if the application were granted, all the licensing standards would be met from the time the primate licence came into force, the LA must grant the licence to the applicant with effect from such date as it may determine.

Alternatively, under subsection (3) if, following an inspection under the LA is not satisfied that a licensing standard would be met from the time the licence came into force, but considers that, if the applicant were to take certain steps, that standard would be met within a reasonable time after the licence came into force, the LA must grant the licence to the applicant, with effect from such date as it may determine, subject to a rectification condition (the latter is provided for in Clause 6 conditions). A LA can refuse an application under subsection (4).

An amendment to Clause 5, allows a LA in Wales, to take previous breaches of the licensing standards, and other relevant conduct, into account when making determinations under Clause 5(2) and (3).

Clause 6: Conditions

Clause 6 provides that a LA must attach the general licence condition, namely, a condition requiring the holder of the licence to meet the licensing standards, and comply with any requirements in regulations under Clause 3(3), to any primate licence that it grants.

Where a LA grants a primate licence, the LA must also attach one or more rectification conditions to the licence. Subsection (4) provides that a rectification condition is a condition requiring the holder of a primate licence to take, within a period specified in the condition, such steps as the LA considers necessary for the purpose of ensuring that a licensing standard is met.

Under subsection (5), where a primate licence includes a rectification condition, the general licence condition does not have effect during the period specified, so far as relating to the licensing standard to which the rectification condition relates.

Clause 7: Variation and surrender

Clause 7 provides that the holder of a primate licence may apply to the LA that granted it to vary the licences to reduce or increase the number of primates of any species specified in the licence, add or remove a species of primate specified in the licence, or change the premises specified in the licence to other premises in the area of the same LA. Clause 7 is amended to clarify that a LA, including in Wales, can only vary the premises to which a licence relates if the new premises are in its area.

Under subsection (2) the LA must grant an application and vary the licence as requested, if the application is to remove a species of primate kept under the licence, and in other circumstances may grant the application and vary the licence to any extent as requested. Clause 7 is amended to the effect that a LA, including in Wales, is not required to grant an application to reduce the number of primates to which a licence applies.

Subsection (3) provides that a LA, before determining whether to vary a licence may request further information from the licence holder, or may arrange for the premises specified in the licence to be inspected by a veterinary surgeon. Clause

7 is amended to provide where an application is made to vary the premises to which a licence relates, to inspect the new premises before determining the application.

Subsection (4) provides that a primate licence may be surrendered by its holder at any time.

Clause 8: Renewal

Clause 8 provides that the holder of a primate licence may apply for renewal of the licence to the LA that granted the licence. The application must be made in the first six months of the final year for which the licence has effect and specify such information, and be in such form, as the LA may determine.

Subsection (4) provides that before determining whether to grant the application, the LA must arrange for a veterinary surgeon to inspect the premises specified in the licence to determine whether the licensing standards would continue to be met if the application were granted.

Under subsection (5) if, following an inspection, the LA is satisfied that, if the application were granted, all the licensing standards would continue to be met, the LA must grant the application and renew the licence for a further period of six years.

Subsection (6) provides that if following a veterinary inspection the LA is not satisfied that a licensing standard would continue to be met, but considers that, if the applicant were to take certain steps, that standard would be met within a reasonable time after the licence was renewed, the LA must grant the application and renew the licence for a further period of six years subject to such rectification conditions as the LA may determine. When making determinations under clause 8(5) and (6), a LA, including in Wales, may take into account any previous breaches of the licensing standards, and any other conduct of the applicant that is relevant.

Subsection (7) provides that in any other circumstances the LA must refuse the application.

Subsection (8) sets out the matters to be taken into account for the purposes of subsections (5) and (6), including any previous failure by the applicant to meet the licensing standards and any other conduct of the applicant that is relevant.

Subsection (10) sets out that where a primate licence is renewed, the renewal has effect from the end of the six-year period for which it previously had effect and subsection (11) permits renewal of a primate licence any number of times.

Clause 8 is amended by amendment 14 which allows a LA, including in Wales, to take previous breaches of the licensing standards, and other relevant conduct, into account when making determinations under Clause 8(5) and (6)

Clause 9: Death of a Licence Holder

Clause 9 applies where the holder of a primate licence dies during the period for which the licence has effect. The licence is deemed to be granted to the licence-holder's personal representatives.

Under subsection (3) if the personal representatives do not notify the LA of the death within the period of 28 days beginning with the date of death, the licence deemed to be granted under subsection (2) expires at the end of that period.

Under subsection (4) if the personal representatives do notify the LA of the death within that 28-day period the licence deemed to be granted to them expires three months from the date of the licence-holder's death, the LA may on application by the personal representatives extend the period for which the licence has effect for up to three months if satisfied that it is appropriate.

If before the time when the licence would otherwise expire any of the personal representatives applies for a new licence under Clause 4, the licence continues to have effect until the application is determined.

Clause 10: Inspections of licensed premises, and Clause 11: Fees

Clause 10 sets out the conditions for inspecting licensed premises. Inspections are to be carried out by the LA and could occur at any 'reasonable hour', and Clause 11 establishes that a LA may charge a fee for issuing a licence and for carrying out an inspection.

Clause 12: Offences

Clause 12 establishes that 'the holder of a primate licence who fails to comply with the general licence condition commits an offence' and is liable to a fine not exceeding Level 4 on the standard scale.

Clause 13: Rectification notices

Clause 13 states LAs have the option of issuing a rectification notice which must specify the necessary steps the licence holder must take and the timeframe in which to take them in order to satisfy the conditions of the license. The timeframe to take the necessary steps must not exceed two years. Anyone failing to comply with a rectification notice commits an offence and is liable to a fine not exceeding Level 4 on the standard scale.

Clause 14: Revocation etc. of licence

Clause 14 provides LAs must revoke a primate licence if the licence holder is convicted of an offence under either the Animal Welfare Act 2006, or Clause 1 (prohibition on keeping primates without a licence) or Clause 17 (selling primates to unlicensed persons).

A LA, which has granted a primate licence, may also revoke the licence if the holder has been issued with a fixed penalty notice under Schedule 2 in respect of an offence under Clause 1 or 17 and discharges liability for the offence in accordance with that notice.

A LA may also revoke or vary a licence if the holder fails to comply with the general licence condition, allow access for an inspection under Part 1, pay a fee charged under Part 1, or take the steps specified in a rectification notice.

Clause 15: Directions

Clause 15 provides for directions that a LA can give if it is satisfied that a primate is being kept without a licence.

Clause 16: Forfeiture

Clause 16 covers forfeiture of a licence and enables a LA to apply to the Magistrates' Court for an order that a primate found to be kept unlawfully to be removed from its keeper and handed to another person, sold or otherwise disposed of or put down.

This can also be applied to the offspring of a pregnant primate. Clause 16 also sets out that the primate owner can appeal to the Crown Court and that any order under this clause does not take effect until a period when the appeal is determined.

Clause 17: Selling primates to unlicensed persons, and Clause 18: Breeding primates

Clauses 17 and 18 establish offences involving the selling or breeding of primates. A person guilty of an offence under either of these sections is liable to summary conviction and/or to a fine.

Clause 17 also states it is an offence to sell, give or otherwise transfer ownership of a primate to a person knowing, or having reasonable grounds to suspect, that the person will keep the primate in contravention of Clause 1(1).

Clause 17 is further amended by the consequential amendment to Clause 1, which applies the Bill to Wales.

Clause 18 provides that a person commits an offence if the person takes steps for the purpose of securing that a primate which is kept by that person without relevant authorisation breeds with another primate, or keeps two or more primates without relevant authorisation where the primates are not neutered, and the primates are kept in conditions or circumstances where they may breed.

Clause 19: Powers of entry

Clause 19 introduces Schedule 4 which confers powers of entry in relation to offences under Clauses 1, 12, 17 and 18.

Clause 20: Guidance

Clause 20 (Guidance) makes provision for guidance to be issued in respect of the powers of local authorities. The amendments to Clause 20 require guidance given by the Welsh Ministers to be laid before Senedd Cymru and published. LAs must have regard to Welsh Ministers' guidance when carrying out their functions

Clause 21: Information

Clause 21 provides the appropriate authority with the power to require LAs to provide information of the primates, fees and other information relevant to the discharge of their functions.

Clause 21 is also amended to replace references to "Secretary of State" with references to "appropriate national authority", which includes the Welsh Ministers.

Clause 22: Power to extend Part 1

Clause 22 provides that the appropriate national authority may by regulations amend Part 1 so that it applies not only to primates but also to other kinds of wild animal. Subsection (2) makes provision for regulations under Clause 22 to modify any provision of Part 1 in its application to a wild animal that is not a primate; subsections (3) and (4) enable regulations to make consequential, supplementary, or incidental provision and require consultation before making the regulations, and subsection (5) defines "wild animal".

Clause 22 is amended to replace references to "Secretary of State" with references to "appropriate national authority", which includes the Welsh Ministers and a consequential amendment on the new clause about regulations.

Clause 23: Meaning of "keep", and Clause 24: General interpretation

The provision about regulations under Part 1 with a view to provision about regulations appearing in a new clause (formerly referred to as Clause 23) is removed. As a result of this amendment, the clause numbering for Clauses 23 and 24 has been amended. Clause 23 and Clause 24 define the meaning of words used in Part 1.

Clause 23, the meaning of "keep", is also amended by the consequential amendment in Clause 1 applying the Bill to Wales.

Clause 24 is amended to:

- define "appropriate national authority" in relation to Wales as the Welsh Ministers,
- limit the existing definition of "Local Authority" to England, in consequence of the application of Part 1 to Wales,

- introduce a consequential amendment on the limits of the existing definition of LA's to England.
- provide for a definition of "Local Authority" for Wales,
- provide that where premises are partly in one LA's area and partly in another one's, they are treated as being in the area of the LA where the major part of the premises is situated, including in Wales.

Part 2: Dogs Attacking and Worrying Livestock

25. It is the Welsh Government's view that consent is required for the amendments to Part 2 as they make provision with regard to devolved matters insofar as they apply to Wales, notably animal welfare and agriculture. Paragraphs 16 to 20 above set out the Welsh Government's position in relation to Part 2

Clause 38: General Interpretation

The amendments to clause 38 make drafting changes to the definition of enclosed deer and clarifies that the definition of livestock includes steers and covers only wild boar that are enclosed.

Part 3 – Other Provisions about Kept Animals

26. It is the Welsh Government's view that consent is required for the amendments to the provisions in Part 3 of the Bill which are detailed below, on the basis that they make provision with regard to the devolved matters of animal welfare and agriculture insofar as they apply to Wales.

Export of Livestock

Clause 40: Prohibition of export of livestock for slaughter etc

Clause 40 - The amendments make drafting changes to simplify the definition of livestock, including ensuring it includes steers.

Animal Welfare and retained direct EU legislation

Clause 42 : Powers to amend or revoke retained EU law

Clause 42 - The amendments to Clause 42 enable regulations under section 12(1) of the Animal Welfare Act 2006 to amend or revoke instruments made under section 2(2) of the European Communities Act 1972 (implementation of EU obligations etc) and also enable regulations under section 13 of the Animal Welfare Act 2006 to make consequential amendments or revocations of retained direct EU legislation and instruments made under section 2(2) of the European Communities Act 1972.

Importation of dogs, cats and ferrets

Clause 45: Reduction in limit on non-commercial movement of dogs, cats and ferrets

The amendments to Clause 45 make consequential amendments in relation to relevant Welsh regulations, namely the Trade in Animals and Related Products (Wales) Regulations (S.I. 2011/2379 (W. 252) which provides for the enforcement of Regulation (EU) No 576/2013 of the European Parliament and of the Council of 12 June 2013 on the non-commercial movement of pet animals and repealing Regulation (EC) No 998/2003. Clause 45 is also amended to restrict the maximum number of dogs, cats and ferrets that may enter Great Britain in a non-commercial motor vehicle to three.

Clause 46: Powers relating to importation of certain dogs, cats and ferrets

The amendments to Clause 46 provide that regulations under Clause 46(1) may contain exemptions, including exemptions applying where a permit is held, and may make provision about permits (including applications for permits, the determination of applications and fees). Clause 46 is also amended to include a ban on the importation into Great Britain of dogs, cats and ferrets aged six months or less.

Clause 48: Animal Welfare Act 2006: minor amendments

Clause 48 is a new clause which amends the Animal Welfare Act 2006 so that section 31 (time limits for prosecutions) applies to offences under regulations under that Act (as well as to offences under that Act) and section 51 (inspectors) applies in relation to provisions of regulations under that Act (as well as in relation to provisions of that Act).

Clause 49: Meaning of “appropriate national authority” and “enactment”

Clause 49 -The amendments to Clause 49 have effect so as to create concurrent functions. “Appropriate national authority” is defined in Clause 49 as, in relation to Wales, the Welsh Ministers or the Secretary of State acting with the consent of the Welsh Ministers (see paragraphs relating to Clause 50 below).

Part 4 – General

27. It is the Welsh Government’s view that consent is required for amendments to provisions in Part 4 of the Bill which are detailed below on the basis they make provision with regard to the devolved matters of animal welfare and agriculture insofar as they apply to Wales.

Clause 50: Power to make consequential provision

Clause 50 - The amendments to Clause 50 have effect so that the Welsh Ministers may, by regulations, make provision that is consequential on any provision of (Part 1 – Primates) and Part 3 (Other Provisions about Kept Animals

etc.) as it applies in relation to Wales. However, the provision that can be made under those regulations is qualified by the fact that it is linked to provision which is within the legislative competence of Senedd Cymru if contained in an Act of the Senedd.

To illustrate, Clauses 41 and 46 (under Part 3) provide the “appropriate national authority” with regulation making powers in relation to other kept animals. Clause 41 sets out that regulations may be made which relate to the enforcement of Clause 40 (the prohibition of export of livestock for slaughter etc). Regulations under this clause may, amongst other things, include any provision considered appropriate for, or in connection with preventing, detecting, investigation or punishing contraventions of Clause 40.

Clause 46 provides the ‘appropriate national authority’ with a power to make regulations which relate to the importation of relevant animals (defined as dog, cat or ferret) into Great Britain for the purpose of promoting the welfare of those animals. Regulations made under this clause may, for example, prohibit or restrict the importation of a relevant animal which is below a specified age, has been mutilated or is more than a specified number of days pregnant.

The amendments to Clause 50 confer concurrent functions on the Welsh Ministers in relation to legislative functions under Part 3 (i.e. Clauses 41 and 46) and provide that devolved authorities’ powers are limited by reference to devolved legislative competence.

“Appropriate national authority” is defined in Clause 49 as, in relation to Wales, the Welsh Ministers or the Secretary of State acting with the consent of the Welsh Ministers.

Consequently, any regulations made under Clauses 41 and 46 would need to be within the legislative competence of the Senedd (which is already the case). The Secretary of State may make regulations with the consent of the Welsh Ministers, providing those regulations are within the devolved competence of the Welsh Ministers.

Clause 52: Regulations

Clause 52 introduces a new provision for regulations. It provides that a power to make regulations under the Bill (except for regulations under clause 53: Commencement) also includes a power to make different provision for different purposes, different provision for different areas, consequential, incidental, supplementary, transitional, transitory or saving provision. Under this Clause, where the Welsh Ministers have a power to make regulations under the Act, they are able to exercise the above powers.

The amendments also set out the procedure for making regulations and specify that, any regulations made under Clause 3(1) or 3(3), (Licensing standards and other requirements) 22 (power to extend Part 1), Part 3 (Other provisions about Kept Animals) or Clause 50 (power to make consequential provision) that amend, repeal or revoke provision made by primary legislation or retained EU legislation

is subject to the Affirmative procedure of Senedd Cymru. All other regulations under the Bill are made by the negative procedure.

Clause 53: Commencement

Clause 53 -The amendments to Clause 53 confer on the Welsh Ministers the power to commence Part 1 (Primates) in relation to Wales.

Schedules

Schedule 1: Primates: transitional provision relating to primates *(introduced by Clause 1)*

28. It is the Welsh Government's view that consent is required for the provisions in Schedule 1, including amendments to those provisions, as detailed below on the basis that they make provision with regard to the devolved matter of animal welfare insofar as they apply to Wales.

A key amendment applying to Part 1 of the Bill enables Welsh Ministers to bring forward secondary legislation to operate in Wales. Functions under Part 1 in England which are conferred on the Secretary of State will, in Wales be conferred on Welsh Ministers as the "appropriate national authority".

Schedule 1 sets out a transitional scheme for persons that keep primates as pets before a date to be set by way of regulations before the prohibition comes into effect. It outlines the use of a registration scheme under which individuals may keep their existing primates subject to certain registration conditions for a set amount of time.

Paragraph 2 establishes the registration requirements of the scheme and paragraphs 3 and 4 set out the application requirements that individuals must undertake to request to be registered for an exemption under paragraph 1. Amendments have effect so that applications are to be made to the Local Authority in whose area the primate is kept. Paragraph 3(1) is amended with effect that in the case of an application to a local authority in Wales, that the individual kept the primate in premises in England or Wales immediately before the date specified a) in regulations made by the Welsh Ministers. A further amendment to the paragraph 3(1) provides that an application for registration under the Schedule may be made if the application condition is met. Paragraph 2 further establishes that the LA as the enforcement body must inspect the premises in which the primate is being kept before granting an application for registration.

Paragraph 5 establishes the local authorities' powers to inspect the premises where a registered primate is being kept to ensure its ongoing welfare needs are being met.

Paragraph 6 enables the LA to charge fees in respect to an application for a registration or for any inspection conducted under this Schedule.

Paragraphs 7 makes it an offence to breach the conditions of the registration. Individuals deemed to have breached the conditions of registration will be liable for a fine following summary conviction or may be subject to a fixed penalty notice (see Schedule 2).

Paragraph 8 enables local authorities to issue rectification notices to individuals who are not meeting the registration conditions with a view to directing them to take actions that would enable them to meet those conditions within a specified time period.

Paragraph 9 establishes the process that individuals must follow when transferring a primate held under the registration scheme to another keeper.

Paragraph 10 sets out the duty on registered keepers to notify the relevant LA on the death of a primate in their care.

Paragraph 11 sets out the process to be applied upon the death of the holder of a registered primate.

Paragraph 12 establishes the end date of the registration scheme.

Schedule 2: Offences relating to primates: fixed penalty notices *(introduced by Clause 1)*

29. It is the Welsh Government's view that consent is required for all of the provisions in Schedule 2, including any amendments to those provisions, as detailed below on the basis that they make provision with regard to the devolved matter of animal welfare insofar as they apply to Wales.

Schedule 2 provides for the serving of fixed penalty notices relating to offences around the keeping of primates in Part 1 and schedule 1 of the Bill. This includes offences in sections 1, 12, 13, 17, 18 and Schedule 1. Under this schedule Local Authorities may issue fixed penalty notices that enable an offender to discharge their liability through payment of a fine.

Paragraph 4 establishes that once a notice has been issued a prosecution may not be brought during a set period and provides that once a notice has been paid that individual cannot be convicted of the offence for which the notice was issued.

Paragraph 5 establishes that any sums received by local authorities under these notices must be paid into the consolidated fund, after local authorities have deducted any costs for investigating the relevant offence or issuing the notice. Amendments to Schedule 2 provide for sums received by local authorities in Wales under Schedule 2 to be paid into the Welsh Consolidated Fund, subject to deduction of investigation costs.

Schedule 3: Decisions relating to primates: representations and appeals *(introduced by Clause 5)*

30. It is the Welsh Government's view that consent is required for all of the provisions in Schedule 3, including any amendments to those provisions, as detailed below on the basis that they make provision with regard to the devolved matter of animal welfare insofar as they apply to Wales.

Schedule 3 sets out the right of individuals to make representations and appeals in relation to decisions around the making of applications, the serving of rectification notices and the withdrawal or variation of licences connected to the keeping of primates.

Paragraphs 2 to 10 establish the individual's right to information from local authorities regarding decisions and the right to make representations, to ask for reconsideration of decisions or to appeal to a First-tier tribunal. Amendments to Schedule 3 have effect so that appeals in Wales are made to a Magistrates' Court. The amendments provide a definition of an appropriate tribunal or court as, in relation to an appeal relating to the decision of a Local Authority in Wales, a magistrates court.

Schedule 4: Powers of entry relating to primates *(introduced by Clause 19)*

31. It is the Welsh Government's view that consent is required for all of the provisions in Schedule 4 as detailed below on the basis that they make provision with regard to the devolved matter of animal welfare insofar as they apply to Wales.

Schedule 4 sets out the powers of entry of local authorities when enforcing the licensing regime for the keeping of primates and gives appointed inspectors the authority to obtain a warrant permitting entry to any premises where there is a reasonable grounds for suspecting an offence under Clauses 1, 12, 17 or 18 has been committed.

Paragraphs 4 to 9 outlines the activities that inspectors may exercise in the application of this power and various safeguards surrounding the exercise of the power.

Paragraph 10 establishes that it is an offence to refuse entry to an inspector or to obstruct them in carrying out their duties under this part. Paragraph 11 establishes the liability of inspectors in respect to carrying out activity under this Part.

Welsh Government position on the Bill as amended

32. The Welsh Government supports the amendments covered by this LCM, because they extend provisions to Wales, including powers for the Welsh Ministers, which will support the Programme for Government commitments embedded in our five year Animal Welfare Plan for Wales, offering the coherence in terms of enforcement and other matters across England and Wales which is essential given the cross-border nature of this policy area.

33. At this stage, however, Welsh Government reserves its position on whether the Senedd should deny consent in part as a formal response to inter-Ministerial correspondence is awaited in relation to powers for the Welsh Ministers in Part 2 of the Bill (Dogs Attacking or Worriying Livestock), though the UK Government at present maintains this part of the Bill is entirely reserved.

Financial implications

34. The provisions will give rise to one-off and recurring charges on the public revenue (central government, local authorities, Border Force, the police and the Courts and Tribunal Service) to the Bill (impact assessments were undertaking on an England only/GB wide/England and Wales basis where necessary (largely on a GB basis) in relation to the contents of the Bill), which also covers the impacts on business.
35. Where possible, existing powers to recover regulatory costs from service users will be used (for example licence fees will be charged by local authorities to cover their costs of operating the new primate licensing scheme).

Conclusion

36. Subject to the final outcome of negotiations with the UK Government, the Welsh Government considers it appropriate to use this UK Bill as a vehicle to progress important and high profile animal welfare policies on, largely, a GB wide basis, particularly where these aims will benefit from a joined up approach with other governments on enforcement.
37. The Bill will also provide clarity for the Courts and the public alike and it is a timely opportunity to take these important policy and legislative changes forward.

Lesley Griffiths

Minister for Rural Affairs and North Wales, and Trefnydd

3 March 2022

Annex: Amendments requiring the consent of the Senedd in so far as the provisions relate to Wales

Part 1: Primates

Clause 1: Prohibition on keeping primates without a licence

Amendment 3: Clause 1, page 1, line 7, leave out “anywhere in England”

Clause 2: Primate licences

Amendment 4: Clause 2, page 2, line 6, after “species” insert “at such premises”

Clause 3: Licensing standards and other requirements

Amendment 5: Clause 3, page 2, line 11, leave out “Secretary of State” and insert “appropriate national authority”

Amendment 6: Clause 3, page 2, line 22, leave out “Secretary of State” and insert “appropriate national authority”

Amendment 7: Clause 3, page 2, line 28, leave out “Secretary of State” and insert “appropriate national authority”

Amendment 8: Clause 3, page 2, line 29, leave out “Secretary of State” and insert “appropriate national authority”

Clause 4: Applications

Amendment 9: Clause 4, page 2, line 32, leave out “in England”

Clause 5: Determination of applications

Amendment 10: Clause 5, page 4, line 1, at end insert— “(4A) For the purposes of subsections (2) and (3) a LA may take into account— (a) any previous failure by the applicant to meet the licensing standards, and (b) any other conduct of the applicant that is relevant

Clause 7: Variation and surrender

Amendment 11: Clause 7, page 4, line 26, at end insert “to other premises in the area of the same LA”

Amendment 12: Clause 7, page 4, line 29, leave out “reduce the number of primates or”

Amendment 13: Clause 7, page 4, leave out lines 34 to 37 and insert— “(a) may request further information from the licence-holder; (b) in the case of an application under subsection (1)(a) or (b), may arrange for the premises specified in the licence to be inspected by a veterinary surgeon; (c) in the

case of an application under subsection (1)(c), must arrange for the proposed new premises to be so inspected.”

Clause 8: Renewal

Amendment 14: Clause 8, page 5, line 24, at end insert— “(7A) For the purposes of subsections (5) and (6) a LA may take into account— (a) any previous failure by the applicant to meet the licensing standards, and (b) any other conduct of the applicant that is relevant.”

Clause 17: Selling primates to unlicensed persons

Amendment 15: Clause 17, page 10, line 6, leave out “in England”

Clause 20: Guidance

Amendment 16: Clause 20, page 11, line 3, leave out “Secretary of State” and insert “appropriate national authority”

Amendment 17: Clause 20, page 11, line 12, leave out “Parliament after it is made” and insert “— “(a) Parliament, in the case of guidance given by the Secretary of State, or (b) Senedd Cymru, in the case of guidance given by the Welsh Ministers.”

Amendment 18: Clause 20, page 11, line 12, at end insert— “(3A) The appropriate national authority must publish any guidance given under this section.”

Amendment 19: Clause 20, page 11, line 13, leave out from “must” to end of line 14 and insert “, in the exercise of their functions under this Part, have regard to guidance given by the appropriate national authority.”

Clause 21: Information

Amendment 20: Clause 21, page 11, line 16, leave out “Secretary of State” and insert “appropriate national authority”

Amendment 21: Clause 21, page 11, line 17, leave out “Secretary of State” and insert “appropriate national authority”

Amendment 22: Clause 21, page 11, line 24, leave out “Secretary of State” and insert “appropriate national authority”

Amendment 23: Clause 21, page 11, line 26, leave out “Secretary of State” and insert “appropriate national authority”

Amendment 24: Clause 21, page 11, line 27, leave out “Secretary of State” and insert “appropriate national authority”

Clause 22: Power to extend Part 1

Amendment 25: Clause 22, page 11, line 31, leave out “Secretary of State” and insert “appropriate national authority”

Amendment 26: Clause 22, page 12, line 1, leave out from beginning to second “provision” in line 2 and insert “The consequential, supplementary, or incidental provision that may be made under this section includes”

Amendment 27: Clause 22, page 12, line 4, leave out “Secretary of State” and insert “appropriate national authority”

Amendment 28: Clause 22, page 12, line 5, leave out “Secretary of State” and insert “appropriate national authority”

Clause 23: Regulations under Part 1

Amendment 29: Page 12, line 8, leave out Clause 23

Clause 24: Meaning of “keep”

Amendment 30: Clause 24, page 12, line 28, after “England” insert “and Wales”

Clause 25: General interpretation

Amendment 31: Clause 25, page 12, line 31, at end insert— ““appropriate national authority” means— (a) in relation to England, the Secretary of State, and (b) in relation to Wales, the Welsh Ministers;”

Amendment 32: Clause 25, page 13, line 1, after “authority” insert “, in relation to England,”

Amendment 33: Clause 25, page 13, line 3, after “council” insert “in England”

Amendment 34: Clause 25, page 13, line 7, at end insert— ““local authority”, in relation to Wales, means a county council or county borough council in Wales;”

Amendment 35: Clause 25, page 13, line 21, at end insert— “(2) Where any premises are partly in the area of one local authority and partly in the area of another Local authority, the premises are treated for the purposes of this Part as being in the area of the local authority in which the major part of the premises is situated.”

Clause 38: Regulations under Part 2

Amendment 36: Page 22, line 23, leave out Clause 38

Part 2: Dogs Attacking and Worrying Livestock

Clause 40: General Interpretation

Amendment 37: Clause 40, page 23, line 32, at end insert— ““enclosed deer” means any deer so long as they are being kept for business purposes on land enclosed by a barrier intended to prevent their escape;”

Amendment 38: Clause 40, page 23, line 37, at end insert— ““enclosed wild boar” means any wild boar so long as they are being kept on land enclosed by a barrier intended to prevent their escape;”

Amendment 39: Clause 40, page 23, line 39, leave out paragraph (a) and insert— “(a) cattle and other bovine animals,”

Amendment 40: Clause 40, page 23, line 40, leave out from “horses” to end of line and insert “and other equine animals”

Amendment 41: Clause 40, page 24, line 5, after “or” insert “enclosed”

Amendment 42: Clause 40, page 24, line 8, leave out paragraph (j) and insert— “(j) enclosed deer;”

Part 3 – Other Provisions about Kept Animals

Export of Livestock

Clause 42: Prohibition of export of livestock for slaughter etc

Amendment 44: Clause 42, page 25, line 13, leave out paragraph (a) and insert— “(a) cattle and other bovine animals,”

Amendment 45: Clause 42, page 25, line 14, leave out from “horses” to end of line and insert “and other equine animals,”

Clause 43: Power to make provision in connection with the enforcement of section 42

Animal Welfare and retained direct EU legislation

Clause 44: Powers to amend or revoke retained direct EU legislation

Amendment 47: Clause 44, page 27, line 15, at end insert— “(b) any instrument containing provision made under section 2(2) of the European Communities Act 1972.””

Amendment 48: Clause 44, page 27, line 15, at end insert— “(1A) In Schedule 1 to that Act (regulations under section 13), in paragraph 19 after subparagraph (1) insert— “(1A) In the case of consequential provision, the power under sub-paragraph (1) includes power to amend or revoke— (a) any

retained direct EU legislation; (b) any instrument containing provision made under section 2(2) of the European Communities Act 1972.”

Importation of dogs, cats and ferrets

Clause 45: Reduction in limit on non-commercial movement of dogs, cats and ferrets

Amendment 51: Clause 45, page 28, line 16 at end insert-

“(9) In regulation 3(1)(b) of the Trade in Animals and Related Products (Wales) Regulations (S.I. 2011/2379 (W. 252))—

(a) in the English language text—

(i) at the end of sub-paragraph (i) for “or” substitute “and”;

(ii) for sub-paragraph (ii) substitute—“(ii) Article 5(4) of the Pets Regulation does not apply.”;

(b) in the Welsh language text—

(i) at the end of sub-paragraph (i) for “neu” substitute “a”;

(ii) for sub-paragraph (ii) substitute—“(ii) Nid yw Erthygl 5(4) o’r Rheoliad Anifeiliaid Anwes yn gymwys.”

Clause 46: Powers relating to importation of certain dogs, cats and ferrets

Amendment 52: Clause 46, page 28, line 25 at end insert-

“(2A) The regulations may—

(a) provide that a prohibition or restriction is subject to specified exemptions, including an exemption in cases where a permit issued under the regulations is in force,

(b) make provision for and in connection with applications for permits and the determination of such applications, and

(c) require a specified fee to be paid on the making of such an application.”

Part 4 – General

Amendment 54: Clause 48, page 31, line 6, leave out from “authority” to end of line 15 and insert

“, in relation to a power to make provision, means—

(a) the Secretary of State;

(b) the Scottish Ministers, so far as the provision would be within the legislative competence of the Scottish Parliament if contained in an Act of that Parliament;

(c) the Welsh Ministers, so far as the provision would be within the legislative competence of Senedd Cymru if contained in an Act of the Senedd.

(2A) But the Secretary of State may make regulations under section 43 or 46 only with—

- (a) the consent of the Scottish Ministers, if the regulations contain provision that could be made under that section by the Scottish Ministers;
- (b) the consent of the Welsh Ministers, if the regulations contain provision that could be made under that section by the Welsh Ministers.”

Amendment 55: Clause 48, page 31, line 21 leave out Clause 49.

Amendment 56: Clause 50, page 32, line 8, leave out “made by statutory instrument”.

Amendment 57: Clause 50, page 2, line 9, at end insert—

“(1A) The Scottish Ministers may by regulations make provision that is consequential on any provision of Part 3 as it extends to Scotland.

(1B) The Welsh Ministers may by regulations make provision that is consequential on any provision of Part 1 or 3 as it applies in relation to Wales.

(1C) But—

- (a) provision may be made under subsection (1A) only if it would be within the legislative competence of the Scottish Parliament if contained in an Act of that Parliament;
- (b) (b) provision may be made under subsection (1B) only if it would be within the legislative competence of Senedd Cymru if contained in an Act of the Senedd.”

Amendment 58: Clause 50, page 32, leave out lines 14 to 24.

Amendment 59: Clause 51, page 32, line 29, at end insert—

“(A1) Part 1 comes into force—

- (a) in relation to England, on such day as the Secretary of State may by regulations appoint;
- (b) in relation to Wales, on such day as the Welsh Ministers may by regulations appoint.

Amendment 60: Clause 51, page 32, line 30, leave out “Parts 1 and 2 come” and insert “Part 2 comes”.

Amendment 61: Clause 51, page 32, line 35, leave out “, 48 and 49” and insert “and 48”.

Amendment 62: Clause 51, page 32, line 36, at end insert— “() section (Animal Welfare Act 2006: minor amendments) comes into force on such day as the appropriate national authority may by regulations appoint;”

Amendment 65: Clause 51, page 33, line 16, leave out from first “Ministers” to “may” in line 17.

Amendment 67: Clause 51, page 33, line 18, at end insert—

“(6A) The Welsh Ministers may by regulations make transitional or saving provision in connection with the coming into force of any provision of Part 1 or 3 in relation to Wales.”

Schedules

Schedule 1 – TRANSITIONAL PROVISION RELATING TO PRIMATES

Amendment 71: Schedule 1, page 34, line 7, after “regulations” and insert “made by the appropriate national authority”

Amendment 72: Schedule 1, page 34, line 19, leave out “Secretary of State” and insert “appropriate national authority”

Amendment 73: Schedule 1, page 34, line 23, leave out from “who” to “may” in line 24 and insert “meets the application condition in relation to a primate”

Amendment 74: Schedule 1, page 34, line 25, after “regulations” insert “made by the appropriate national authority”

Amendment 75: Schedule 1, page 34, line 26, after “premises” insert “in which the primate is kept”

Amendment 76: Schedule 1, page 34, line 26, at end insert—

“(1A) “The application condition”, in relation to a primate, means—
(a) in the case of an application to a LA in England, that the individual kept the primate in premises in England or Wales immediately before the date specified under paragraph 1(1)(a) in regulations made by the Secretary of State;
(b) in the case of an application to a LA in Wales, that the individual kept the primate in premises in England or Wales immediately before the date specified under paragraph 1(1)(a) in regulations made by the Welsh Ministers.”

Schedule 2 – OFFENCES RELATING TO PRIMATES: FIXED PENALTY NOTICES

Amendment 77: Schedule 2, page 38, line 30, at end insert “in the case of local authorities in England, or the Welsh Consolidated Fund in the case of local authorities in Wales.”

Amendment 78: Schedule 2, page 38, line 31, after “Fund” insert “or Welsh Consolidated Fund”

Schedule 3 – DECISIONS RELATING TO PRIMATES: REPRESENTATIONS AND APPEALS

Amendment 79: Schedule 3, page 39, line 32, leave out “First-tier Tribunal” and insert “appropriate tribunal or court”

Amendment 80: Schedule 3, page 39, line 34, at end insert—

“(2) In this paragraph and paragraph 9, “appropriate tribunal or court” means—

- (a) in relation to an appeal relating to the decision of a local authority in England, the First-tier Tribunal;
- (b) in relation to an appeal relating to the decision of a local authority in Wales, a magistrates’ court.”

Amendment 81: Schedule 3, page 39, line 35, leave out “First-tier Tribunal” and insert “appropriate tribunal or court”

Movement of Clauses

Amendment NC1: To move the following clause -

“Animal Welfare Act 2006: minor amendments

- (1) The Animal Welfare Act 2006 is amended as follows.
- (2) In section 31(1) (time limits for prosecutions) after “under” insert “or by virtue of”.
- (3) In section 51 (inspectors)—
 - (a) in subsection (5) after “under” insert “or by virtue of”;
 - (b) after subsection (6) insert—
- “(7) In this section, a reference to the purposes of this Act includes the purposes of provision made under the Act.””

Amendment NC3:

“Regulations

- (1) This section applies to regulations under any provision of this Act except section 51.
- (2) A power to make regulations includes power to make—
 - (a) different provision for different purposes;
 - (b) different provision for different areas;
 - (c) consequential, incidental, supplementary, transitional, transitory or saving provision.
- (3) Regulations made by the Secretary of State or the Welsh Ministers are to be made by statutory instrument.

(4) For regulations made by the Scottish Ministers, see section 27 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10) (Scottish statutory instruments).

(5) The Secretary of State may not make a statutory instrument containing (whether alone or with other provision)—

- (a) regulations under section 3(1) or (3)(b),
- (b) regulations under section 22,
- (c) regulations under Part 2,
- (d) regulations under Part 3 other than regulations made by virtue of section 46(2A)(c) (power to prescribe fee for making application), or
- (e) regulations under section 50 that amend, repeal or revoke provision made by primary legislation or retained direct principal EU legislation, unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament

(6) Any other statutory instrument made by the Secretary of State containing regulations is subject to annulment in pursuance of a resolution of either House of Parliament.

(7) The following regulations made by the Scottish Ministers are subject to the affirmative procedure (see section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010)—

- (a) regulations under Part 3 other than regulations made by virtue of section 46(2A)(c);
- (b) regulations under section 50 that amend, repeal or revoke provision made by primary legislation or retained direct principal EU legislation.

(8) Any other regulations made by the Scottish Ministers are subject to the negative procedure (see section 28 of that Act). (9) The Welsh Ministers may not make a statutory instrument containing (whether alone or with other provision)—

- (a) regulations under section 3(1) or (3)(b),
- (b) regulations under section 22,
- (c) regulations under Part 3 other than regulations made by virtue of section 46(2A)
- (c), or
- (d) regulations under section 50 that amend, repeal or revoke provision made by primary legislation or retained direct principal EU legislation, unless a draft of the instrument has been laid before, and approved by a resolution of, Senedd Cymru.

(10) Any other statutory instrument made by the Welsh Ministers containing regulations is subject to annulment in pursuance of a resolution of Senedd Cymru.

(11) In this section “primary legislation” has the meaning given by section 50.”