

LEGISLATIVE CONSENT MEMORANDUM

Animal Welfare (Kept Animals) 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 (Kept Animals) Bill (“the Bill”) was introduced by George Eustice MP in the House of Commons and given its First Reading on 8 June 2021. The Bill can be found at:

<https://bills.parliament.uk/bills/2880>

Policy Objective(s)

3. The 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

4. The Bill is sponsored by the Department for Environment, Food and Rural Affairs.
5. The Bill makes provision in the following areas:
 - Part 1 and Schedules 1 – 4: Primates;
 - Part 2 - Dogs attacking or worrying livestock;
 - Part 3 - Other provisions about kept animals:
 - a. Clauses 42 and 43 - Exports of live animals: prohibition of export for slaughter etc.;
 - b. Clause 44 – Power to amend or revoked retained direct EU legislation (regulations to promote animal welfare);
 - c. Clause 45 - Reduction in the limit of non-commercial movement of pets;
 - d. Clause 46 – Powers relating to importation of certain dogs, cats and ferrets; and
 - e. Clause 47 (and Schedule 5) – Zoos
 - Part 4: General.
6. As set out above 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.

7. 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.
8. 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. 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.
9. 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.
10. 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. This provision applies in relation to England only.
11. 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 NAFW Standards of Modern Zoo Practice.
12. The Bill also amends the Zoo Licensing Act 1981 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.

Provisions in the Bill for which consent is required

13. Consent is required for the following provisions of the Bill because they make provision with regard to devolved matters.

Part 2 - Dogs attacking or worrying livestock

Clause 26: Offence where dog attacks or worries livestock

14. This clause provides that a person that owns or is in charge of a dog shall be guilty of an offence if the dog attacks or worries livestock on any agricultural land or a road, path or verge thereof.
15. Subsection (2) provides a person will not be guilty of an offence if the livestock are trespassing on agricultural land and the dog is owned by or in the charge of the person that is the occupier of the land, unless the occupier causes the dog to attack the livestock.

16. Subsection (3) similarly provides that if at the time of the incident the livestock have strayed onto a road or path from where they are kept, the person who owns or has charge of the dog will not be guilty of an offence unless they cause the dog to attack the livestock.
17. Subsection (4) sets out that if the owner of the dog can prove that at the time when the dog attacked or worried the livestock it was in the charge of another person they will not be guilty of an offence under this clause.
18. Subsection (5) provides that a person found guilty of an offence under this clause shall be liable to a fine not exceeding level 3 on the standard scale. Subsection (6) refers to orders under Part 2 of the Bill that may be imposed on a person guilty of an offence whether or not in addition to a fine.
19. It is the Welsh Government's view that consent is required for this clause as it makes provision with regard to devolved matters insofar as it applies to Wales, notably animal welfare and agriculture.

Clause 27: Seizure and detention of dogs

20. This clause sets out the circumstances in which a police officer may seize and detain a dog in relation to the offence of attacking or worrying livestock.
21. Subsections (2) and (9) set out the circumstances in which the owner of a detained dog is liable to pay expenses incurred because of the dog being detained.
22. Subsections (3) and (4) explain what can be done to any dog seized under subsection (2) if they are not claimed after seven days.
23. Subsections (5) and (6) set out the requirements for a register of all dogs seized under subsection (2) which the chief officer of police for each police area must keep, or cause to be kept.
24. Subsections (7) and (8) explain the circumstances under which the police may seize and detain a dog which they believe pose a risk of attacking or worrying livestock again, if not detained.
25. It is the Welsh Government's view that consent is required for this clause as it makes provision with regard to devolved matters insofar as it applies to Wales, notably animal welfare and agriculture.

Clause 28: Collection of samples and impressions

26. This clause enables a police officer to take samples or impressions from a dog or livestock where this might provide evidence of an offence being committed under clause 26.

27. Subsection (5) provides that if the act of taking a sample would require an act of a veterinary surgery, it must be done by a veterinary surgeon and subsection (6) explains how long samples and impressions may be retained.
28. Subsection (7) sets out the definitions relevant for this clause including definitions of “sample” and “veterinary surgeon”.
29. It is the Welsh Government’s view that consent is required for this clause as it makes provision with regard to devolved matters insofar as it applies to Wales, notably animal welfare and agriculture.

Clause 29: Power of justice of the peace to authorise entry and search

30. This clause sets out that if a constable makes an application to a justice of the peace, and they have reasonable grounds to believe that an offence has been committed, the justice of peace may issue a warrant authorising a constable to enter and search the premises in order to identify the dog, seize and detain the dog or take samples, impressions or seize any other evidence of the offence that may be found. Subsection (5) provides that a warrant under this clause may authorise the constable to use reasonable force if necessary
31. It is the Welsh Government’s view that consent is required for this clause as it makes provision with regard to devolved matters insofar as it applies to Wales, notably animal welfare and agriculture.

Clause 30: Control order upon conviction under section 26

32. This clause provides that if a person is convicted of an offence under clause 26 of the Bill, and the Court is satisfied that the offender failed to ensure the relevant dog was kept under proper control at the time of the offence, the Court may make a Control Order specifying one or more measures the offender, owner of the dog or both must take to ensure the dog is kept under proper control in the future.
33. When making such an order, the Court must set out its reasons for doing so which must be entered into the register of its proceedings.
34. Subsection (4) sets out that if the offender is not the owner of the relevant dog, the court can only make a control order if the owner has an opportunity to be heard, unless the court is satisfied that it is not reasonably practicable to communicate with the owner. Subsection (6) sets out that the offender as well as the owner of the dog may appeal against a control order to the Crown Court.
35. Subsections 30(7) and (8) provide that a person who breaches a control order commits an offence and is liable to a fine not exceeding level 3 on the standard scale.

36. It is the Welsh Government's view that consent is required for this clause as it makes provision with regard to devolved matters insofar as it applies to Wales, notably animal welfare and agriculture.

Clause 31: Destruction order upon conviction under section 26

37. This clause provides that when a person is convicted of an offence under clause 26 and the Court is satisfied that the relevant dog poses a risk of attacking or worrying livestock again, the Court may order the relevant dog to be destroyed ("a destruction order"). When making a destruction order, the Court must set out its reasons for doing so which must be entered into the register of its proceedings.

38. Subsection (3) provides that if the offender is not the owner of the relevant dog, the court can only make a destruction order if it has given the owner of the relevant dog an opportunity to be heard, or it is satisfied that it is not reasonably practical to communicate with the owner. Subsection (5) sets out that the offender as well as the owner of the dog may appeal against a destruction order to the Crown Court.

39. It is the Welsh Government's view that consent is required for this clause as it makes provision with regard to devolved matters insofar as it applies to Wales, notably animal welfare and agriculture.

Clause 32: Disqualification order upon conviction under section 26 or breach of control order

40. Clause 32 provides that when a person is convicted of an offence under clauses 26 or 30(7) the Court may make an order ("a disqualification order") disqualifying the offender, for any period as the Court thinks fit, from owning dogs, keeping dogs, or both. When making a disqualification order, the Court must set out its reasons for doing so which must be entered into the register of its proceedings.

41. Subsection (3) provides that a disqualification order may specify a period during which the offender is not allowed to make an application to end the order.

42. Subsection (4) provides that if it appears to the Court that the offender owns or keeps a dog, the Court may suspend the operation of the disqualification order for as long as it thinks necessary to enable alternative arrangements to be made for the dog

43. Subsections (6) and (7) provide that a person who breaches a disqualification order commits an offence and is liable to a fine not exceeding level 3 on the standard scale.

44. It is the Welsh Government's view that consent is required for this clause as it makes provision with regard to devolved matters insofar as it applies to Wales, notably animal welfare and agriculture.

Clause 33: Seizure and disposal of dogs in connection with disqualification order

45. Clause 33 provides that when a Court makes a disqualification order, if the person to whom the order applies to seems to own or keep a dog, the Court may order that the dog can be taken away from them.
46. Subsection (2) provides that where a person is convicted of an offence because of owning or keeping a dog in breach of a disqualification order, the Court may order that all dogs owned or kept in breach of the order can be taken away from them. Subsection (3) provides that an order relating to any dog owned by a person who is subject to the disqualification order must include arrangements for the disposal of the dog.
47. Subsection (4) provides that a dog taken into possession when carrying out an order that is not owned by the person subject to the disqualification order has to be dealt with according to the orders given by the appropriate Court.
48. Subsection (5) sets out that a court may only make an order for disposal of the dog under subsection (4) if it has given the owner of the dog an opportunity to be heard, or it is satisfied that it is not reasonably practical to communicate with the owner. Subsection (6) sets out that where an order for disposal of the dog is made under subsection (4) against a person who is not the owner, the owner of the dog may appeal to the Crown Court against the order.
49. It is the Welsh Government's view that consent is required for this clause as it makes provision with regard to devolved matters insofar as it applies to Wales, notably animal welfare and agriculture.

Clause 34: Termination of disqualification order

50. Subsection (1) sets out that a person who is subject to a disqualification order may apply to an appropriate Court for the order to be terminated. Subsection (2) sets out when applications may be made, subsection (3) provides the powers of the Court in relation to an application and subsection (4) sets out what the Court must consider when considering an application.
51. Subsection (5) provides that if the Court refuses an application or changes a disqualification order following such an application, it may specify a period during which the applicant may not make a further application under that subsection in relation to the order in question.
52. Subsection (6) explains that the Court may order an applicant to pay all or part of the costs of an application.
53. It is the Welsh Government's view that consent is required for this clause as it makes provision with regard to devolved matters insofar as it applies to Wales, notably animal welfare and agriculture.

Clause 35: Sections 31 and 33: supplementary

54. Subsection (1) sets out what may be included in a destruction order.
55. Subsections (2) and (3) provide that a person who fails to comply with a requirement imposed under a destruction order commits an offence and is liable to pay a fine not exceeding level 3 on the standard scale.
56. Subsection (4) sets out that directions may specify how a dog is to be disposed of or delegate the decision about how a dog is to be disposed of to a person appointed under the order. When taking such decisions, subsections (5) and (6) provide that the court or appointed person should take into account the need to protect the value of any dog and the need to avoid increasing any expenses which a person may be ordered to pay.
57. Subsection (7) provides that any amount to which the owner is entitled as a result of selling the dog may be reduced by the amount of that payment.
58. It is the Welsh Government's view that consent is required for this clause as it makes provision with regard to devolved matters insofar as it applies to Wales, notably animal welfare and agriculture.

Clause 36: Control, destruction and disqualification orders: appeals

59. Subsection (1) sets out that nothing may be done to a dog under an order unless the period for giving notice of appeal against the order has expired, the period for giving notice of appeal against the conviction following which the order was made has expired, and if the order or conviction has been appealed, the appeal has been determined or withdrawn.
60. Subsection (2) provides that if an order is suspended any requirements that have been set out or any directions that have been given in connection with the order have no effect, but the court may give directions about how the dog is to be dealt with during the suspension.
61. Subsection (3) sets out what may be set out in directions.
62. Subsections (4) and (5) set out that a person who fails to comply with a requirement posed under subsection (3) commits an offence and is liable to pay a fine not exceeding level 3 on the standard scale.
63. Subsection (6) sets out that any expenses a person is directed to pay under Part 2 of the Bill are recoverable as a civil debt
64. It is the Welsh Government's view that consent is required for this clause as it makes provision with regard to devolved matters insofar as it applies to Wales, notably animal welfare and agriculture.

Clause 37: Crown application

65. This clause sets out how Part 2 of the Bill binds the Crown.
66. Subsection (2) of this clause sets out that the Crown is not criminally liable under Part 2, but subsection (3) provides that it applies to persons in the service of the Crown in the same way as it applies to other persons.
67. Subsection (4) sets out that in circumstances where, except for subsection (2), the Crown would be criminally liable under the Act, the High Court may make a declaration in the matter.
68. Subsection (5) provides that if the Secretary of State certifies that in the interests of national security powers of entry granted in Part 2 should not be exercised in relation to Crown premises specified in the certificate, these powers cannot be exercised in relation to these premises.
69. Subsection (6) defines “Crown premises” as meaning premises held, or used, by or on behalf of the Crown.
70. Subsection (7) explains that no power of entry given by the Act may be exercised in relation to land belonging to Her Majesty. Subsection (8) provides that this reference to “Her Majesty’s private estates” is to be defined according to section 1 of the Crown Private Estates Act 1862.
71. It is the Welsh Government’s view that this clause requires consent as it makes provision with regard to provisions in the Bill that are considered to be devolved.

Clause 38: Regulations

72. Subsection (1) of this clause requires regulations made under Part 2 of the Bill to be made by secondary legislation. Subsection (2) provides that the regulations may include transitional or saving provisions and subsection (3) requires any regulations made under Part 2 to be subject to the affirmative procedure.
73. It is the Welsh Government’s view that this clause requires consent as it makes provision with regard to provisions in the Bill that are considered to be devolved.

Clause 39: Meaning of “worrying livestock”

74. Subsection (1) defines “worrying livestock” for the purposes of Part 2. Subsection (2) lists the types of dogs that are exempt from committing the offence of being at large in a field or enclosure in which there are relevant livestock.
75. Subsection (3) defines what is meant by being “at large” and subsection (4) defines what is meant by “relevant livestock”.

76. Subsection (5) enables the Secretary of State to amend the definition of “relevant livestock” through regulations made under the affirmative procedure.

77. It is the Welsh Government’s view that this clause requires consent as it makes provision with regard to provisions in the Bill that are considered to be devolved.

Clause 40: General Interpretation

78. Subsection (1) defines terms used in this Act, including “agricultural land”, “destruction order”, “disqualification order”, “enclosed gamebirds” and “livestock”.

79. Subsection (3) enables the Secretary of State to amend the definition of “livestock” through regulations made under the affirmative procedure.

80. Subsection (2) explains that references to disposing of a dog include destroying it, but do not include disposing of it for the purposes of vivisection.

81. It is the Welsh Government’s view that this clause requires consent as it makes provision with regard to provisions in the Bill that are considered to be devolved.

Clause 41: Repeal of the 1953 Act in England and Wales

82. This clause repeals the Dogs (Protection of Livestock) Act 1953 in England and Wales.

83. It is the Welsh Government’s view that consent is required for this clause as it makes provision with regard to devolved matters insofar as it applies to Wales, notably animal welfare and agriculture.

Part 3 - Other Provisions About Kept Animals

Export of livestock

Clause 42: Prohibition of export of livestock for slaughter etc

84. Subsection (1) prohibits the export of relevant livestock from Great Britain for slaughter and subsection (2) makes it an offence to contravene this prohibition.

85. Subsection (3) describes “exports” for the purpose of determining whether a person has contravened the prohibition in subsection (1) and subsection (4) defines “for slaughter”, which includes relevant animals being exported for the purpose of being slaughtered or fattened for slaughter.

86. Subsection (5) provides that a person who commits an offence under this clause in England and Wales is liable on summary conviction to imprisonment for up to 51 weeks, to a fine or both. Subsection (6) provides that until section 281(5) of the Criminal Justice Act 2003 comes into force, the imprisonment term if someone commits an offence under the clause in England or Wales should be read as 6 months instead of 51 weeks.
87. Subsection (7) defines “relevant livestock” for the purpose of the clause.
88. Subsection (8) repeals sections 40 to 49 of the Animal Health Act 1981 (relating to the export of horses) and makes other amendments to that Act that are consequential to their repeal.
89. It is the Welsh Government’s view that consent is required for this clause as it makes provision with regard to devolved matters insofar as it applies to Wales, notably animal welfare and agriculture.

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

90. Subsection (1) of this clause empowers the appropriate national authority (the Welsh Ministers or the Secretary of State acting with the consent of the Welsh Ministers in relation to Wales) to make regulations to provide for the enforcement of the prohibition on the export of live animals for slaughter. By virtue of clause 49(6) regulations made under this provision may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, Senedd Cymru.
91. Subsections (2) and (3) provide non-exhaustive lists of what these regulations may cover, which includes powers of entry, seizure or detention, the creation of criminal offences, the imposition of monetary penalties or civil sanctions and a power to amend or revoke any retained direct EU legislation.
92. Subsections (4) and (5) describe and clarify the “civil sanctions” that may be imposed under regulations relating to the enforcement of clause 42. Subsection (6) clarifies the scope of criminal offences that can be created in relation to regulations made under subsection (1).
93. Subsection (7) further restricts the regulations from including provisions on granting powers of entry without the consent of the occupier or under the authority of a warrant or include provisions that allow for a reasonable use of force without a warrant.
94. Subsection (8) defines “specified” for the purposes of the clause.
95. It is the Welsh Government’s view that consent is required for this clause as it makes provision with regard to devolved matters insofar as it applies to Wales, notably animal welfare and agriculture.

Animal welfare and retained direct EU legislation

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

96. Subsection (1) amends section 12 of the 2006 Act (regulations to promote welfare) to enable the Secretary of State and the Welsh Ministers to amend or revoke retained direct EU legislation in regulations made under that section. Subsection (2) makes provision in relation to Scotland and does not make provision with regard to devolved matters. By virtue of section 61(2) of the 2006 Act, regulations made under section 12 may not be made unless a draft has been laid before, and approved by a resolution of, Senedd Cymru.

97. It is the Welsh Government's view that consent is required for clause 44(1) as it makes provision with regard to devolved matters insofar as it applies to Wales, notably animal welfare.

Importation of dogs, cats and ferrets

Clause 45: Reduction in limit of non-commercial movement of pets

98. This clause amends Regulation (EU) No 576/2013 in retained direct EU law and associated UK regulations to limit the number of dogs, cats and ferrets that may be moved into Great Britain on a non-commercial basis.

99. Subsection (2) inserts new paragraph A1 into Article 5 of the above EU regulation to limit the number of dogs, cats and ferrets that may be moved into Great Britain in a motor vehicle to five animals.

100. Subsection (3) amends paragraph 1 of the above EU regulation to limit the number of pets that may accompany a person when travelling by any way other than a motor vehicle (i.e. by air or as a foot passenger by train or ferry) from five to three. Subsections (4) and (5) make changes to the EU regulation consequential to the amendments made by subsections (2) and (3).

101. Subsection (6) inserts a definition of "motor vehicle" into the EU regulations.

102. Subsections (7) and (8) make consequential amendments to regulations in England and Scotland which provides for the enforcement of the EU regulations and does not make provision with regard to devolved matters.

103. It is the Welsh Government's view that consent is required for clause 45(1)-(6) as it makes provision with regard to devolved matters insofar as it applies to Wales, notably animal welfare.

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

104. Subsection (1) of this clause provides the appropriate national authority with powers to make regulations about the importation of relevant animals (dogs, cats or ferrets) into Great Britain for the purpose of promoting animal welfare.

105. Subsection (2) provides that the regulations may in particular prohibit or restrict imports of relevant animals that are below a prescribed age,

- have been mutilated (e.g. a dog with a docked tail or cropped ears) or is heavily pregnant.
106. Subsection (3) allows regulations to include provisions concerning enforcement and subsection (4) provides that the regulations may include provisions relating to unlawfully imported relevant animals that are seized and detained and may make provision transferring ownership of such animals.
 107. Subsection (5) provides powers to make further regulations to impose monetary penalties for offences under other enactments that concern the welfare or health of imported animals covered by this clause.
 108. Subsection (6) provides a non-exhaustive list of provisions that may be included in the regulations, including conferring functions, record keeping, powers of entry and the creation of new criminal offences.
 109. Subsection (7) limits the power to create new criminal offences by setting the maximum penalties that may be included in the regulations. Subsection (8) limits power of entry introduced by the regulations.
 110. Subsection (8) defines “enactment”, “mutilated”, “prescribed”, “relevant animal” and “unlawfully imported” for the purposes of this clause.

 111. It is the Welsh Government’s view that consent is required for this clause as it makes provision with regard to devolved matters insofar as it applies to Wales, notably animal welfare.

Zoos

Clause 47 and Schedule 5: Zoos

112. Subsection (1) gives effect to Schedule 5 (Zoos), which sets out amendments to the Zoo Licensing Act 1981 (“the 1981 Act”).
113. Subsection (2) amends the Dangerous Wild Animals Act 1976 in order to ensure the particular form of local government for the Isles of Scilly is included in the description of local authorities that can enforce that Act.
114. Schedule 5 makes amendments to the 1981 Act. Paragraphs 4-14 amend the 1981 Act to remove section 1A that specify current conservation requirements. Paragraph 9 amends section 9 of the 1981 Act to provide that standards specified under that section can include standards relating to conservation, and that different standards may be applied to different descriptions of zoo (e.g. a large safari park or a small aquarium). Section 5 of the 1981 Act is also amended to require that all licences issued under the Act include a condition under which the zoo must adhere to the standards produced under section 9 of the 1981 Act.

115. Paragraph 15 amends section 8 of the 1981 Act to add a third part to the list from which inspectors can be drawn for purposes of inspections under the 1981 Act. The third part of the list contains the names of inspectors with specialist expertise in certain species of animal that are

kept in a zoo (as opposed to generalist knowledge of animals of any kind that may be kept in a zoo).

116. Paragraph 16 provides that inspectors from the third part of the list can be used for periodical inspections under section 10 of the 1981 Act. Paragraph 18 amends the 1981 Act to increase those penalties in the Act currently set at Level 3 of the standard scale (£1,000) to a Level 4 standard scale fine (£2,500); and increase those penalties in the Act currently set at Level 4 of the standard scale to a Level 5 standard scale to a Level 5 standard scale fine (an unlimited fine in England and Wales, £5000 in Scotland).

117. It is the Welsh Government's view that consent is required for this clause and Schedule 5 as it makes provision with regard to devolved matters insofar as it applies to Wales, notably animal welfare.

General

Clause 48: Meaning of "appropriate national authority" and "enactment"

118. This clause defines "appropriate" national authority" and "enactment" for the purposes of this Part.

119. It is the Welsh Government's view that this clause requires consent as it makes provision with regard to provisions in the Bill that are considered to be devolved.

Clause 49: Regulations under Part 3

120. This clause sets out how the power to make regulations must be exercised. Subsection (2) provides that regulations made by the Secretary of State or the Welsh Ministers are to be made by statutory instrument. Subsections (3), (4) and (5) relate to England and Scotland, and does not make provision with regard to devolved matters. Subsection (6) provides that the Welsh Ministers may not make a statutory instrument containing regulations under Part 3 unless a draft has been laid before, and approved by, a resolution of Senedd Cymru.

121. It is the Welsh Government's view that consent is required for subsection (1), (2) and (6) of this clause as it makes provision with regard to devolved matters insofar as it applies to Wales.

Part 4: General

Clause 50: Power to make consequential provision

122. Subsections (1) and (2) of this clause provide the Secretary of State with powers to make regulations that are consequential on any provisions in the Bill.

123. Subsection (3) requires regulations that include consequential provisions that make changes to primary legislation or retained direct principal EU legislation to be made under the affirmative procedure and subsection (4) provides that the negative procedure may be used in all other cases. Subsection (5) defines "primary legislation for the purpose of this clause.

124. It is the Welsh Government's view that this clause requires consent as it makes provision with regard to provisions in the Bill that are considered to be devolved.

Clause 51: Commencement

125. Subsections (1), (2) and (4) of this clause sets out when or how each provision in the Bill comes into force. Subsection (3) defines "appropriate national authority" for the purpose of commencing various provisions in Part 3 of the Bill; in relation to Wales, 'the appropriate national authority' means the Welsh Ministers.

126. Subsection (5) provides powers for the Secretary of State, to make transitional or saving provision in connection with the coming into force of any provision of the Act. Subsection (6) provides that the Scottish Ministers and Welsh Ministers to make transitional or saving provisions in connection with the coming into force of any provision of Part 3. Subsection (7) provides that regulations may make different provision for different purposes and subsection (8) provides that regulations made by the Secretary of State or the Welsh Ministers are to be made by statutory instrument. Regulations made by the Welsh Ministers under section 51 in connection with the commencement of provisions must be made by statutory instrument and are not subject to a procedure. Subsection (9) makes provision in respect of Scotland and does not make provision with regard to devolved matters.

127. It is the Welsh Government's view that consent is required for this clause to the extent that it makes provision with regard to provisions in the Bill that are considered to be devolved, as described in this memorandum.

Clause 52: Extent

This clause sets out the territorial extent of each provision in the Bill.
128. It is the Welsh Government's view that consent is required for this clause to the extent, as described in this memorandum.

Clause 53: Short title

129. This clause provides that the short title of the Bill will be the Animal Welfare (Kept Animals) Act 2021 once it becomes an Act.

130. It is the Welsh Government's view that consent is required for this clause as it makes provision with regard to devolved matters insofar as it applies to Wales.

Concurrent plus powers

131. Clause 48 specifies that the "appropriate national authority" for Wales for the purpose of part 3 regulations is (1) Welsh Ministers or (2) SoS acting with WM consent. This creates concurrent functions and will, as drafted, impact upon the Senedd's powers to make legislation in this area in the future due to the fact that Minister of the Crown consent will be required to remove the Secretary of State's concurrent function. This situation has arisen in relation to other UK legislation. A carve out will be needed from the relevant restrictions in Schedule 7B of GoWA.

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

132. Animal welfare is a priority of the Welsh Government and it is the view of the Welsh Government it is considered appropriate to deal with these provisions in this UK Bill for reasons of timing and coherence, essential in relation to enforcement on cross borders and border controls.

133. The Welsh Government is generally supportive of the Bill as drafted. There remain outstanding issues which will form the basis of discussions as the Bill progresses. As currently drafted Part 1 of the Bill (Primates) does not apply to Wales. The Welsh Government is content that these provisions be extended to apply in relation to Wales on the understanding that the Welsh Ministers are given powers in relation to Wales equivalent to those of the Secretary of State in relation to England. We consider the clauses of Part 2 of the Bill (Dogs Attacking or Worrying Livestock) make provision with regard to a devolved matter and that Part 2 of the Bill requires amendment to reflect this. Part 4 of the Bill (General) sets out the general provisions, and will need to be amended in order to provide the Welsh Ministers with powers in relation to Wales, equivalent to those of the Secretary of State.

134. The provisions of the Bill align with the Welsh Government policy objectives regarding the promotion of animal welfare and will ensure closer alignment of policy and implementation, especially in relation to cross border issues relating to enforcement. Taking them forward in this UK Bill will provide Wales with the same provisions as England and

Scotland, at the same time, to strengthen animal welfare protections for kept animals, including livestock, companion animals, and zoo animals.

Financial implications

135. 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 undertaken on an England only/GB wide/England and Wales basis where necessary in relation to the contents of the Bill), which also covers the impacts on business. 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).
136. Any direct financial implications for the Welsh Government or the Senedd as a result of taking these powers in this Bill will require an equivalent financial settlement in relation to impacts on enforcement agencies including Welsh local authorities, Animal and Plant Health Agency. As indicated in the explanatory notes to the Bill, where possible, existing powers to recover regulatory costs from service users will be used (for example licence fees).

Conclusion

137. It is the view of the Welsh Government that it is appropriate to use this UK Bill as a vehicle to progress important and high profile animal welfare issues on largely a GB wide basis, particularly where these aims will benefit from a joined up approach with other administrations. The Bill ensures a comparative working regime across England and Wales, and ensures absolute clarity for enforcement agencies, the Courts and the public, which avoids any misunderstanding in the application of the proposed legislative changes and also provides a timely opportunity to take this forward.

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