

Report on the Legislative Consent Memorandum for the Animal Welfare (Sentencing) Bill

March 2021

Introduction

1. On 17 February 2021, the Minister for Environment, Energy and Rural Affairs laid a Legislative Consent Memorandum for the Animal Welfare (Sentencing) Bill (the LCM) currently before Parliament.
2. On 23 February 2021, the Business Committee referred the LCM to this Committee and to the Legislation, Justice and Constitution Committee for consideration, with a reporting deadline of 25 March 2021.
3. This Committee considered the LCM at its meeting of 11 March 2021.

Background

4. The Animal Welfare (Sentencing) Bill (the Bill) was introduced into the House of Commons on 5 February 2020. The Bill is a UK Government backed Private Member's Bill, sponsored by Chris Loder MP.
5. A similar Bill, the Animal Welfare (Sentencing) Bill, was introduced in the UK Parliament in June 2019, but passage of that Bill was disrupted due to the prorogation of Parliament and dissolution in advance of the House of Commons elections.

Overview of the Bill

6. The long title of the Bill states that it is a Bill to:



“Make provision about the mode of trial and maximum penalty for certain offences under the Animal Welfare Act 2006.”

7. The Bill increases the maximum penalty for specific offences related to animal welfare in England and Wales. It does so by extending the current maximum penalty, specified in section 32 of the Act, of six months and/or an unlimited fine to a penalty of five years and/or an unlimited fine. These offences therefore become triable either way and may be heard in the Magistrates Court or the Crown Court.

Provisions for which consent is sought

8. Paragraph 14 of the Welsh Government’s LCM states that consent is required for clauses 1 and 2 of the Bill. Annex A at page 6 of the Explanatory Notes prepared by DEFRA, also states that the UK Government considers that a legislative consent motion is required for clauses 1 and 2 of the Bill.

Clause 1 – Mode of trial and maximum penalty for certain animal welfare offences

9. Clause 1 of the Bill amends section 32 of the Animal Welfare Act 2006 (the “2006 Act”) (post-conviction powers: imprisonment or fine).

10. Section 32(1) of the 2006 Act provides that particular offences should carry a maximum penalty of 51 weeks imprisonment and/or a level 5 fine.

11. In practice, this is as a maximum penalty of 6 months and an unlimited fine. This is because section 32(5) specifies a maximum penalty of 6 months for offences committed before the commencement of section 281(5) of the Criminal Justice Act 2003. To date, this section has not been commenced.

12. Clause 1 changes the maximum penalty available for the following offences only:

- Causing unnecessary suffering (section 4, 2006 Act);
- Carrying out a non-exempted mutilation (section 5, 2006 Act);
- Docking the tail of a dog except where permitted (section 6(1) and 6(2), 2006 Act;
- Administering a poison to an animal (section 7, 2006 Act); and
- Involvement in an animal fight (section 8, 2006 Act).

13. The existing maximum penalty is retained if the offender is summarily convicted. However, offenders may now receive a higher penalty of up to 5 years imprisonment and/or an unlimited fine if they are convicted on trial by indictment.

14. Magistrates' courts do not have the power to impose penalties greater than six months. Section 154(1) of the Criminal Justice Act 2003 was to increase the maximum custodial sentence imposable by a magistrate's court to 12 months. Section 154(1) will be repealed by the Sentencing Act 2020, but an equivalent provision is contained in paragraph 24(2) of Schedule 22 to the 2020 Act. Section 32(4A) of the 2006 Act inserted by this clause ensures that the appropriate penalties are available to magistrate's courts until the relevant provisions are commenced.

Clause 2 – Extent, commencement, and short title

15. This clause provides for the Bill to extend to England and Wales, and for the Bill to come into force two months after Royal Assent. It states that the amendments do not apply to offences committed before the Bill comes into force. Clause 2 also specifies the short title of the Bill.

Reasons for making these provisions for Wales in a UK Bill

16. In setting out the Welsh Government's reasons for using the Bill to legislate in relation to Wales, the LCM states:

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

17. It also states:

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

Our view

18. Given the limited time available within which we have had to consider and report on the LCM, it has not been possible to look in detail at the proposals.

19. The Committee notes the Welsh Government's reasons for making the provisions for Wales in the Bill. It found no reason to object to the Senedd agreeing the Legislative Consent Motion associated with the LCM.