

## LEGISLATIVE CONSENT MEMORANDUM

### Animal Welfare (Service 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 the National Assembly for Wales if a UK Parliamentary Bill makes provision in relation to Wales for any purpose within, or which modifies the legislative competence of the National Assembly.
2. The Animal Welfare (Service Animals) Bill (the “Bill”) was introduced in the House of Commons on 13<sup>th</sup> June 2018. The Bill can be found at: <https://services.parliament.uk/bills/2017-19/animalwelfareserviceanimals.html>.

#### Policy Objective(s)

3. The UK Government’s stated policy objectives are for increased protection for service animals by amending section 4 of the Animal Welfare Act 2006 (“the 2006 Act”). It addresses public concerns about the application of section 4(3)(C)(ii) of the 2006 Act to attacks on service animals, where a defendant accused of causing unnecessary suffering to an animal could claim they were protecting themselves and are justified in using physical force against a service animal, causing it, effectively, necessary suffering.

#### Summary of the Bill

4. The Bill is sponsored by Sir Oliver Heald QC MP.
5. The Bill amends section 4 of the 2006 Act to require a court to disregard the consideration at section 4(3)(c)(ii) of the 2006 Act in certain circumstances when assessing whether suffering was unnecessary in the context of causing suffering to a service animal.

#### Provisions in the Bill for which consent is required

6. Clause 1: Harming a Service Animal  
This clause provides that the consideration should be disregarded if the animal was under the control of a relevant officer at the time of the conduct, and was being used by that officer at that time in the course of the officer’s duties, in a way that was reasonable in all the circumstances and that the officer is not the defendant accused of causing the unnecessary suffering.
7. The clause defines relevant officer as a constable; a person (other than a constable) who has the powers of a constable or is otherwise employed for police purposes or is engaged to provide services for police purposes; or a prison custody officer within the meaning of Part 4 of the Criminal Justice

Act 1991. A prison officer is an example of a person “who has the powers of a constable” and who would be covered by the new section 3B(b).

8. The clause provides a power for the Secretary of State by regulations subject to the affirmative procedure to amend the definition of “relevant officer” and that only a person in the public service of the Crown may be specified in the definition by virtue of any regulations under the clause.
9. Clause 2: Extent, commencement and short title  
This clause provides for the Bill to extend to England and Wales and that the Bill will come into force two months after Royal Assent. The clause also specifies the short title of the Bill.
10. Consent is required for this because it falls within the legislative competence of the National Assembly for Wales in so far as it relates to Animal Health and Welfare under paragraph 1 of Part 1, Schedule 7 to the Government of Wales Act 2006.

### **Reasons for making these provisions for Wales in the Animal Welfare (Service Animals) Bill**

11. Animal welfare is a priority of the Welsh Government and it is the view of the 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 service animals in Wales will be afforded the same level of protection at the same time as those in England.

### **Financial implications**

12. The Bill has little or no impact on costs to the criminal justice system.

### **Conclusion**

13. It is the view of the Welsh Government that it is appropriate to deal with these provisions in this UK Bill as it represents the most practical and proportionate legislative vehicle to enable the provisions to apply in Wales.

**Lesley Griffiths AM**  
**Minister for Environment, Energy and Rural Affairs**  
**January 2019**