

LEGISLATIVE CONSENT MEMORANDUM

Animal Welfare (Sentencing) Bill

1. This Legislative Consent Memorandum is laid under Standing Order (“SO”) 29.2. SO29 prescribes that a Legislative Consent Memorandum must be laid, and a Legislative Consent Motion may be tabled, before 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 (Sentencing) Bill (the “Bill”) was introduced in the House of Commons on 26 June 2019. The Bill can be found at: <https://services.parliament.uk/Bills/2017-19/animalwelfaresentencing.html>

Policy Objective(s)

3. The UK Government’s policy objective is to increase the maximum prison sentence punishment for the most heinous animal abuse offences to send a clear message that there is no place for animal cruelty in England and Wales.

Summary of the Bill

4. The Bill is sponsored by the Department for Environment, Food and Rural Affairs (Defra).
5. 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.

The draft sentencing clauses in this Bill were published by the UK Government for public consultation on 12 December 2017 as part of the Animal Welfare (Sentencing and Recognition of Sentience) Bill. The consultation closed on 31 January 2018 and the summary of responses document published on 7 August 2018. DEFRA received 9,084 direct responses to the consultation. 70% of respondents agreed with the new maximum penalties. In the summary of responses document, the UK Government committed to bring forward the sentencing clauses in a separate Bill.

Provisions in the Bill for which consent is required

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

Section 32(1) of the Act provides that particular specified offences should carry a maximum penalty of 51 weeks imprisonment and/or an unlimited fine.

In practice, the maximum penalty is capped at 6 months and/or an unlimited fine. This is because section 32(5) of the Act specifies that for all offences committed prior to the commencement of section 281(5) of the Criminal Justice Act 2003, the reference to 51 weeks imprisonment is to be read as a reference to 6 months imprisonment. To date, section 281(5) has not been commenced.

This clause changes the maximum penalty available for the following offences only:

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

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

Under section 78 of the Powers of Criminal Courts (Sentencing) Act 2000 magistrates' courts do not have the power to impose penalties greater than six months. Section 154(1) of the Criminal Justice Act 2003 increased the maximum custodial sentence imposable by a magistrate's court to 12 months. However, to date section 154(1) has not been commenced and the new section 32(4A) of the Act inserted by this clause reflects this position.

7. 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. It states that the amendments do not apply to offences committed before the Act comes into force. The clause also specifies the short title of the Bill.

8. Consent is required for the provisions in Clauses 1 and 2 of the Bill because they fall within the legislative competence of the National Assembly for Wales and do not relate to reserved matters in Schedule 7A

to the Government of Wales Act 2006 as they relate to animal health and welfare.

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

9. 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 the most serious animal cruelty offences in Wales are punishable at the same level as those in England.

Financial implications

10. There are no direct financial implications for the Welsh Government or the Assembly as a result of this Bill.

Conclusion

11. 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.

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