

ANIMAL WELFARE (KEPT ANIMALS) BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Animal Welfare (Kept Animals) Bill as introduced in the House of Commons on 8 June 2021 (Bill 13).

- These Explanatory Notes have been prepared by the Department for Environment, Food and Rural Affairs in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill.

Table of Contents

Subject	Page of these Notes
Overview of the Bill	4
Policy background	4
Legal background	5
Animal Welfare Act 2006	5
Retained direct EU legislation	6
The Dogs (Protection of Livestock) Act 1953	6
The Dangerous Wild Animals Act 1976	6
The Animal Health Act 1981	6
The Zoo Licensing Act 1981	6
Territorial extent and application	6
Commentary on provisions of Bill	7
Part 1: Primates	7
Chapter 1: Keeping Primates	7
Unlicensed keeping of primates	7
Clause 1: Prohibition on keeping primates without a licence	7
Primate licences: introductory	7
Clause 2: Primate licences	7
Clause 3: Licensing standards and other requirements	7
Primate licences: supplementary	8
Clause 4: Applications	8
Clause 5: Determination of applications	8
Clause 6: Conditions	8
Clause 7: Variation and surrender	8
Clause 8: Renewal	8
Clause 9: Death of a licence holder	9
Inspections and fees relating to licensing schemes	9
Clause 10: Inspections of licensed premises	9
Clause 11: Fees	9
Enforcement of licences	9
Clause 12: Offences	9
Clause 13: Rectification notices	10
Clause 14: Revocation etc of licence	10
Primate kept without a primate licence	10
Clause 15: Directions	10
Clause 16: Forfeiture	11
Chapter 2: Selling and breeding primates	11
Clause 17: Selling primates etc to unlicensed persons	11
Clause 18: Breeding primates	11
Chapter 3: Supplementary and general	11
Powers of entry	11

These Explanatory Notes relate to the Animal Welfare (Kept Animals) Bill as introduced in the House of Commons on 8 June 2021 (Bill 13)

Clause 19: Powers of entry	11
Oversight of local authority functions	11
Clause 20: Guidance	11
Clause 21: Information	12
General	12
Clause 22: Power to extend this Part	12
Clause 23: Regulations	12
Clause 24: Meaning of “keep”	12
Clause 25 General interpretation	12
Part 2: Dogs attacking or worrying livestock	12
Attacking or worrying livestock	12
Clause 26: Offence where dog attacks or worries livestock	12
Powers before conviction	13
Clause 27: Seizure and detention of dogs	13
Clause 28: Collection of samples and impressions	13
Clause 29: Power of justice of the peace to authorise entry and search	13
Orders available upon conviction etc	13
Clause 30: Control order upon conviction under section 26	13
Clause 31: Destruction order upon conviction under section 26	14
Clause 32: Disqualification order upon conviction under section 26 or breach of control order	14
Clause 33: Seizure and disposal of dogs in connection with disqualification orders	14
Clause 34: Termination of disqualification order	15
Clause 35: Sections 31 and 33: supplementary	15
Clause 36: Control, destruction and disqualification orders: appeals	15
General	15
Clause 37: Crown application	16
Clause 38: Regulations	16
Clause 39: Meaning of “worrying livestock”	16
Clause 40: General Interpretation	16
Clause 41: Repeal of the 1953 Act in England and Wales	16
Part 3: Other provisions about kept animals	16
Export of livestock	16
Clause 42: Exports of live animals: prohibition of export for slaughter etc	16
Clause 43: Power to make provision in connection with the enforcement of section 42	17
Animal welfare and retained direct EU law	17
Clause 44: Powers to amend or revoke retained direct EU legislation	17
Importation of dogs, cats and ferrets	17
Clause 45: Reduction in limit of non-commercial movement of pets	17
Clause 46: Powers relating to importation of certain dogs, cats and ferrets	18
Zoos	18
Clause 47: Zoos	18
General	18
Clause 48: Meaning of “appropriate national authority” and “enactment”	18
Clause 49: Regulations under Part 3	18
Part 4: General	19
Clause 50: Power to make consequential provision	19
Clause 51: Commencement	19
Clause 52: Extent	19
Clause 53: Short title	19
Schedules	19

Schedule 1: Primates: transitional provision relating to primates	19
Schedule 2: Offences relating to primates: fixed penalty notices	20
Schedule 3: Decisions relating to primates: representations and appeals	20
Schedule 4: Powers of entry relating to primates	20
Schedule 5: Zoos	20
Introduction	20
Meaning of “zoo” for purposes of Act	20
Meaning of “local authority” for purposes of Act	21
Conservation measures etc	21
Inspectors	21
Appeals against decisions of local authorities	21
Commencement	21
Financial implications of the Bill	22
Parliamentary approval for financial costs or for charges imposed	22
Compatibility with the European Convention on Human Rights	22
Related documents	22
Annex - Territorial extent and application in the United Kingdom	23
Subject matter and legislative competence of devolved legislatures	24

Overview of the Bill

1. The Animal Welfare (Kept Animals) Bill (“the Bill) includes provisions to deliver a number of reforms relating to kept animals, including farm animals, companion animals, and kept wild animals.
2. 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. The Bill repeals and replaces the Dogs (Protection of Livestock) Act 1953 in respect of England and Wales to improve enforcement in response to the most serious incidents of livestock worrying by dogs. The Bill does so by broadening the definition of livestock which are currently afforded protection and the areas in which the powers apply (e.g. on a road where livestock might temporarily be while being moved from place to place). It also incorporates a range of ancillary orders that courts may make to provide effective tools to address reoffending in the most serious cases of livestock worrying.
3. 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.
4. 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. The Bill also 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 the Secretary of State’s Standards of Modern Zoo Practice. The Bill also amends the above Act to enable the Secretary of State 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.

Policy background

5. The government published *Our Action Plan for Animal Welfare* (APAW) in May 2021, which sets out a range of legislative and non-legislative reforms to ensure that the welfare of all animals, whether farm, companion or wild animals, is set at the highest standards.
6. The UK has a strong track record on improving farm animal welfare standards, as demonstrated by its bans on battery cages, sow stalls and veal crates. The Bill will further welfare standards for farm animals and horses by delivering the Conservative Party manifesto commitment to end the export of live animals for fattening and slaughter. The Department and the Welsh Government published a consultation in December 2020 on the proposal to end the export of live animals for fattening and slaughter and on other improvements to animal welfare in transport. The Scottish Government also consulted on improvements to animal welfare in transport towards the end of 2020. The Bill includes provisions to prohibit exports of cattle, sheep, pigs, goats and equines for slaughter, including for fattening for subsequent slaughter, from Great Britain to EU member states and other third countries.
7. The Bill also addresses the serious issue of livestock worrying in England and Wales. Dog attacks on farm animals are a major concern to farmers and rural communities. This is a growing concern, and in addition to uninsured financial costs, livestock worrying can cause much distress to farmers. To tackle this, this Bill repeals and replaces the Dogs (Protection of Livestock) Act 1953 (in respect of England and Wales), enhancing mechanisms available to the police and expanding the scope of livestock currently afforded protection. This will ensure that the police can respond to the most serious incidents of livestock worrying effectively and proportionately and offers better protection to livestock and farmers in England and Wales.

8. The Bill addresses the issue of illegal puppy smuggling and the movement and import of pets on welfare grounds to give effect to the Conservative Party's manifesto commitment to crack down on puppy smuggling. These movements raise serious welfare issues, as evidence suggests that imported puppies are being sourced from breeding facilities with low welfare standards and are being transported at a very young age on very long journeys which can be distressing for them. The Bill will reduce the number of pets (dogs, cats and ferrets) that can be moved non-commercially by individuals into Great Britain, as many commercial operators appear to be disguising commercial imports as non-commercial movements and fraudulently taking advantage of the pet travel scheme. Powers in the Bill will also enable regulations to introduce new restrictions on the commercial import and non-commercial movement of pets on welfare grounds. These restrictions could relate to the permitted minimum age of puppies, to the permitted extent of pregnancy of a dog, and to dogs which have been subjected to mutilations such as docked tails or cropped ears which are banned domestically.
9. Finally, the Bill will deliver new protections for kept wild animals. Wild animals often have highly complex and unique welfare needs, and it is essential that all kept wild animals are cared for in a way that meets these needs. The Bill will deliver a manifesto commitment to introduce a ban on the keeping of primates as pets in England. It is the government's view that these highly intelligent creatures require special care and attention. The Bill will ensure that all primates are kept at 'zoo-level' standards and that cases of private owners unable to meet the standards are phased out over time. For kept wild animals in zoos, the Bill amends the Zoo Licensing Act 1981 to improve its operability by requiring animal welfare standards to be enforced more thoroughly in England, Wales and Scotland. The Bill also makes provision for the conservation requirements that zoos must undertake to be specified in more detail and increases the current penalties under the Act so that they are in line with the current animal welfare legislation across other sectors. These changes will strengthen the already high animal welfare standards in zoos and ensure they will be enforced more effectively.
10. Animal welfare is mainly devolved. The matter of dangerous dogs and dogs dangerously out of control is reserved in respect of Wales.

Legal background

Animal Welfare Act 2006

11. The aim of the Animal Welfare Act 2006 ("the 2006 Act") is to promote the welfare of "protected animals", except animals used in scientific procedures which are subject to the Animals (Scientific Procedures) Act 1986. Vertebrate animals of a kind commonly domesticated in the British Islands are deemed to be "protected animals", whether they can be said to be under the control of man or not. This ensures that, for example, stray dogs and feral cats are covered. Animals of a kind not commonly domesticated, such as wildlife, in the UK are only protected animals to the extent that they are under the control of man or are not living independently in the wild.
12. The 2006 Act makes it an offence for any person who is responsible for a kept animal to cause the animal unnecessary suffering or to fail to provide for the animal's welfare needs. It also provides for additional specific animal welfare protections to be introduced under secondary legislation and provides for the publication of statutory welfare codes that enable practical guidance to be provided to keepers on how to care for their animals. These codes can be used to inform prosecutions (although the codes themselves are not all legally enforceable).
13. The welfare of primates is currently protected by the 2006 Act and the keeping of primates as part of a business of exhibiting them for educational or entertainment purposes or selling them is regulated by the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 (S.I. 2018/486). A statutory Code of Practice for the Welfare of Privately Kept Non-Human Primates has

These Explanatory Notes relate to the Animal Welfare (Kept Animals) Bill as introduced in the House of Commons on 8 June 2021 (Bill 13)

also been published under the 2006 Act.

Retained direct EU legislation

14. Whilst the UK was a member of the EU, the export of live animals from the UK was governed by Council Regulation No 1/2005 on the protection of animals during transport and related operations. Council Regulation No 1/2005 has become retained direct EU legislation in England, Wales and Scotland.
15. The non-commercial movement of dogs into Great Britain is regulated by Regulation (EU) No 576/2013, which is part of retained direct EU legislation. This restricts the number of dogs, cats and ferrets that may accompany a person when travelling.

The Dogs (Protection of Livestock) Act 1953

16. The Dogs (Protection of Livestock) Act 1953 deals with dogs that chase or attack livestock in England, Wales and Scotland (known as livestock worrying).

The Dangerous Wild Animals Act 1976

17. Certain species of wild animal kept in Great Britain, which are considered to be dangerous should they escape, fall under the Dangerous Wild Animals Act 1976. This legislation, which provides for the keeping of some dangerous primates, is primarily concerned with public safety rather than animal welfare and requires keepers of dangerous wild animals to be licensed and inspected by the local authority.
18. The definition of “local authority” in that Act does not currently include the Council of the Isles of Scilly.

The Animal Health Act 1981

19. The Animal Health Act 1981 includes provisions on the welfare of livestock and horses intended for export from Great Britain.

The Zoo Licensing Act 1981

20. The Zoo Licensing Act 1981 regulates establishments that exhibit animals of a species that are not normally domesticated in Great Britain for seven or more days in a twelve-month period. These include zoos, safari parks and aquariums. The 1981 Act is enforced through a licensing regime that is administered by local authorities. The 1981 Act also sets out the conservation activities that zoos must undertake.
21. The standards that a zoo in Great Britain should meet in order to obtain or retain its licence are set out in the Secretary of State’s Standards for Modern Zoo Practice (SSSMZP), which are specified under section 9 of the 1981 Act.
22. As with the Dangerous Wild Animals Act 1976, the definition of “local authority” in the 1981 Act does not include the Council of the Isles of Scilly.

Territorial extent and application

23. Clause 52 sets out the territorial extent of the Bill, which describes the jurisdictions in which the Bill forms part of the law. Currently the territorial extent and application of the Bill is, variously, England-only (primates), England and Wales (dogs attacking or worrying livestock) and Great Britain (exports of live animals, the movement and importation of pets and zoos). This position may change in due course once the governments in Wales and Scotland have reconvened after their recent elections and have had the opportunity to consider and confirm which measures should be applied to them.

24. See the table in Annex A for a summary of the position regarding territorial extent and application in the United Kingdom. The table also summarises the position regarding legislative consent motions and matters relevant to Standing Orders Nos. 83J to 83X of the Standing Orders of the House of Commons relating to Public Business.

Territorial extent and application

.Commentary on provisions of Bill/Act

Commentary on provisions of Bill

Part 1: Primates

Chapter 1: Keeping Primates

Unlicensed keeping of primates

Clause 1: Prohibition on keeping primates without a licence

25. Subsection (1) of this clause sets out the central prohibition in this Part which provides that only those licensed to keep a primate in England may do so. Subsection (2) establishes that a person is guilty of an offence if that person keeps a primate in breach of the prohibition.
26. Subsection (3) outlines the exemptions to the prohibition for those holding a licence under the Zoo Licensing Act 1981 or a section 2C licence within the meaning of the Animals (Scientific Procedures) Act 1981.
27. Subsection (4) provides that the prohibition on keeping primates is subject to a direction under clause 15 and the provisions in Schedule 1.
28. Subsection (5) provides that a person guilty of an offence under this clause is liable on summary conviction to a fine. Subsection (6) introduces Schedule 2 which confers powers on local authorities to issue fixed penalty notices in relation to offences under this Part.

Primate licences: introductory

Clause 2: Primate licences

29. Subsection (1) of this clause establishes that the holder of a primate licence is permitted to keep the number and species of primate set out in their licence whilst the licence is valid.
30. Subsection (2) outlines that a primate licence is valid for six years from the date it comes into force, subject to the provisions in Chapter 1.

Clause 3: Licensing standards and other requirements

31. Subsection (1) of this clause provides that the Secretary of State must, by regulations, set standards for the care and management of primates to be kept under licences.
32. Subsection (2) outlines a non-exhaustive list of examples of areas of care and management of primates that the standards may address.
33. Subsection (3) enable the Secretary of State to make regulations requiring the holder of a primate licence to comply with other requirements under the licence relating to the provision of information to the local authority and the microchipping of the primates.
34. Subsection (4) requires the Secretary of State to consult appropriate persons before making regulations under subsection (1).

These Explanatory Notes relate to the Animal Welfare (Kept Animals) Bill as introduced in the House of Commons on 8 June 2021 (Bill 13)

Primate licences: supplementary

Clause 4: Applications

35. Subsections (1) and (2) enable a person who keeps or proposes to keep a primate to apply for a primate licence from their local authority. That person must not be under the age of 18 and must not have been disqualified from keeping primates.
36. Subsections (3) to (5) outline the information required from applicants as part of the application process for a primate licence.
37. Subsection (6) provides that a person is disqualified from keeping primates if they have been disqualified from keeping primates under section 34(2) of the Animal Welfare Act 2005, section 1 of the Protection of Animals (Amendment) Act 194, section 40(1) of the Animal Health and Welfare (Scotland) Act 2006, or section 22(1) of the Welfare of Animals Act (Northern Ireland) 2011.

Clause 5: Determination of applications

38. Subsection (1) of this clause establishes the use of veterinary surgeons to determine an applicant's ability to meet the licensing standards and therefore to hold a licence. Inspectors are required to visit the premises where primates are to be kept before determining if an application should be granted.
39. Subsections (2) provides that if all the licensing standards would be met or can be met by the time the primate licence comes into force, then the local authority must grant a licence to the applicant.
40. Subsection (3) establishes that if the inspector deems that the applicant cannot meet the licensing standards but could meet them if the applicant was to take certain steps, the local authority may grant a primate licence subject to a rectification condition in the licence. Subsection (4) requires the local authority to refuse the application under any other circumstances.
41. Subsection (5) introduces Schedule 3 which contains provisions for making representations or appeals against a decision to refuse an application for a primate licence.

Clause 6: Conditions

42. Subsections (1) and (2) of this clause establishes that licence holders are required to meet the licensing standards and comply with requirements set out in regulations made under Section 3(3).
43. Subsections (3) to (5) set out that local authorities must attach "rectification conditions" to any primate licence that it grants under clause 5(3) This requires licence holders to take any actions that inspectors deem are necessary within a specified time period to ensure that all licensing standards are met.

Clause 7: Variation and surrender

44. Subsections (1) of this clause provide that the holder of a licence may apply to the local authority for the primate licence to be varied to reduce or increase the number of primates, to add or remove a species of primate, or change address. Subsection (2) sets out when the local authority must or may grant the application and vary the licence.
45. Subsection (3) enables the local authority to request further information or arrange an inspection of the existing or new premises prior to granting a variation request.
46. Subsection (4) outlines that a primate licence may be surrendered by the holder at any time.
47. Subsection (5) refers to Schedule 3 which sets out rights to make representation and appeals.

Clause 8: Renewal

48. Subsection (1) and (2) of this clause enable the holder of a primate licence to apply to the local

authority for the licence to be renewed before it expires. The renewal application must be made in the first six months of the final year before it expires.

49. Subsection (3) establishes that the local authority may specify what information is required for a renewal application.
50. Subsections (4) and (5) establishes that any licence renewals are subject to a veterinary surgeon inspector visit of the licence holder's premises to determine if the primate licence would continue to meet the licensing standards in the future.
51. Subsection (6) outlines that if an inspector determines that a licensing standard could be met if the applicant took certain steps, the local authority must renew the primate licence subject to a rectification notice. Subsection (7) establishes that under any other circumstances the application must be refused.
52. Subsection (8) refers to Schedule 3 which sets out rights to make representations and appeals.
53. Subsections (9) and (10) outlines that a licence renewal takes effect from the end of the previous licence period and a licence may be renewed multiple times.

Clause 9: Death of a licence holder

54. Subsection (1) states that the provisions in this clause apply upon the death of the holder of a primate licence.
55. Subsection (2) confirms that the primate licence is deemed to be granted to the licence holder's personal representatives upon the death of the licence holder. Subsection (3) provides that if the personal representatives do not notify the local authority of the death within 28 days of the death of the licence holder, the primate licence expires at the end of that period.
56. Subsection (4) sets out the process if the personal representatives notify the local authority of the death of the licence holder within 28 days of the death. Any of the personal representatives may apply for a new primate licence within three months from the death of the licence holder, which may be extended for a further three months upon submission of an application. The old primate licence would then continue to have effect beyond that three-month period until the application is determined.

Inspections and fees relating to licensing schemes

Clause 10: Inspections of licensed premises

57. Subsection (1) of this clause establishes that a local authority may arrange for a suitable person to inspect premises specified in the primate licence and that such inspections must take place at least twice during the term of the licence. Subsection (2) provides that inspections must take place at a reasonable hour.

Clause 11: Fees

58. This clause provides for a local authority to charge fees to applicants and licence holders related to the applications made for a primate licence and conducting inspections.

Enforcement of licences

Clause 12: Offences

59. Subsection (1) of this clause provides that an individual will have committed an offence if they fail to meet the terms of their licence conditions, but subsection (2) establishes that it is a defence for a person to prove they took reasonable steps to comply with a licence condition.

60. Subsection (3) sets the penalty for an offence under this clause as a fine not exceeding level 4 on the standard scale and subsection (4) refers to Schedule 2 which provides for the issue of a fixed penalty notice.

Clause 13: Rectification notices

61. Subsection (1) of this clause establishes that a local authority may serve a rectification notice to a licence holder if the licence holder is failing to meet one or more of the licence standards.
62. Subsections (2) and (3) outlines that a rectification notice must state the cause of the notice, the actions the licence holder must take, the deadline for taking action, and the extent to which the licence holder may not be prosecuted for the offence that gave rise to the rectification notice during the term of the notice. Subsection (4) enables the local authority to extend the rectification period more than once so long as the extended period does not exceed two years.
63. Subsection (5) establishes that a licence holder commits an offence if they do not comply with a rectification notice. Subsection (6) sets the penalty for offences under this section as a fine not exceeding level 4 on the standard scale. Subsection (7) refers to Schedule 2 which provides for the issue of a fixed penalty notice and Schedule 3 which gives details of the rights to representations and appeals.

Clause 14: Revocation etc of licence

64. Subsection (1) of this clause provides that the local authority must revoke a primate licence if the licence holder is found guilty of an offence under the 2006 Act or an offence under clauses 1 or 17 of this Part. Subsection (2) also permits the local authority to revoke a primate licence if the licence holder pays a fixed penalty issued in respect of an offence under clauses 1 or 17 of this Part.
65. Subsection (3) lists other circumstances in which the local authority may revoke or vary a primate licence, being if the holder fails to comply with a licence condition, allow access for an inspection, pay a fee or take the steps outlined in a rectification notice.
66. Subsection (4) specifies how a local authority may vary a primate licence by reducing the number of primates permitted to be kept under it or by removing any primate species permitted to be kept under it.
67. Subsection (5) refers to Schedule 3 which sets out provisions on representation and appeals against decisions to revoke a licence.

Primate kept without a primate licence

Clause 15: Directions

68. Subsection (1) provides that this clause applies when a local authority is satisfied that a primate is being kept unlawfully.
69. Subsections (2) and (3) enable a local authority to give a direction that the keeper of a primate is not in contravention of the prohibition of keeping a primate without a primate licence during a period set out in the direction (“the suspension period”).
70. Subsection (4) empowers the local authority to direct the keeper to take certain actions, in particular to ensure that the basic welfare needs of the primate are met, that it is registered with a veterinary practice, that it receives regular health checks and, if appropriate, to take any other steps for securing the welfare of the primate or action required by the licensing standards under this Part, or other regulations under clause 3.
71. Subsection (5) provides that if the local authority is satisfied that the keeper has failed to comply with the direction, it may revoke the direction. The keeper then becomes subject again to the prohibition in

clause 1 from the date of the revocation of the directions.

Clause 16: Forfeiture

72. Subsections (1) to (3) of this clause enables a local authority 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. Subsection (4) provides that an order under this clause may relate to the offspring of a pregnant primate.
73. Subsections (5) to (7) provide for the offender or the owner of the primate to appeal to the Crown Court against an order made under this clause.
74. Subsections (8) and (9) outline that an order under this clause does not take effect until the end of the appeal period or the time when the appeal is determined. However, the magistrates court may give directions prior to the order taking effects, including directions for the primate to be handed over to another person, powers of entry and or the payment of expenses.

Chapter 2: Selling and breeding primates

Clause 17: Selling primates etc to unlicensed persons

75. Subsection (1) of this clause prohibits individuals from selling, gifting, or otherwise transferring a primate to another person that does not already hold a relevant primate licence or is otherwise authorised to keep a primate under other relevant legislation.
76. Subsections (2) and (3) provide that any person found to have committed an offence under this clause will be liable to a fine or be issued with a fixed penalty notice under Schedule 2.

Clause 18: Breeding primates

77. This clause provides that a person commits an offence where they take steps to breed from a primate under their care without a relevant licence or where they knowingly keep two or more primates together without a relevant licence where the primates are kept in conditions or circumstance where they are able to breed. This does not apply to a person holding a licence under this Part or authorised to keep a primate under other relevant legislation. A person that commits an offence under this clause is liable to a fine or may be issued with a fixed penalty notice under Schedule 2.

Chapter 3: Supplementary and general

Powers of entry

Clause 19: Powers of entry

78. This clause confers power of entry set in Schedule 4 to be used in relation to offence under clauses 1, 12, 17 or 18.

Oversight of local authority functions

Clause 20: Guidance

79. Subsection (1) of this clause provides that the Secretary of State may issue guidance to local authorities in respect of their functions under this Part. Subsection (2) includes a non-exhaustive list of matters that the guidance may cover and subsection (3) requires the guidance to be laid before Parliament.
80. Subsection (4) requires local authorities to have regard to any guidance that may be issued by the Secretary of State when carrying out their functions.

Clause 21: Information

81. This clause provides the Secretary of State with the power to require local authorities to provide information of the primates, fees and other information relevant to the discharge of their functions under this Part.

General

Clause 22: Power to extend this Part

82. This clause provides the Secretary of State with a power, by regulation, to amend this Part to extend the licensing regime to other wild animals which are not normally domesticated in Great Britain. The regulations may contain consequential, supplementary incidental or transitional provisions and amend any enactment. Before exercising this power, the Secretary of State must consult appropriate persons.

Clause 23: Regulations

83. This clause provides for regulations made under this Part to be exercisable by the Secretary of State by statutory instrument. Regulations made under clauses 3(1), 3(3)(b) and 22 are subject to the affirmative procedure. All other regulations made under this Part are subject to the negative procedure.

Clause 24: Meaning of “keep”

84. This clause defines “keep” as it pertains to persons who have a primate in their possession. It allows for situations in which a primate is not deemed to be “kept” by a person, for example when a primate is undergoing veterinary treatment or being transported by another person.

Clause 25 General interpretation

85. This clause contains definitions for terms used in this Part.

Part 2: Dogs attacking or worrying livestock

Attacking or worrying livestock

Clause 26: Offence where dog attacks or worries livestock

86. Subsection (1) of 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.
87. 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. 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.
88. 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.
89. 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 this Part that may be imposed on a person guilty of an offence whether or not in addition to a fine.

Powers before conviction

Clause 27: Seizure and detention of dogs

90. 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.
91. 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.
92. Subsection (3) and (4) explains what can be done to any dog seized under subsection (2) if they are not claimed after seven days.
93. 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.
94. 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.

Clause 28: Collection of samples and impressions

95. Subsections (1),(2), (3) and (4) of 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. 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.
96. Subsection (7) defines “sample”, “veterinary surgeon” and “veterinary surgery” for the purpose of this clause.

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

97. 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.
98. Subsection (5) provides that a warrant under this clause may authorise the constable to use reasonable force if necessary.

Orders available upon conviction etc

Clause 30: Control order upon conviction under section 26

99. Subsections (1) to (3) of this clause provide that if a person is convicted of an offence under clause 26 and the court is satisfied that the offender failed to ensure that the relevant dog was kept under proper control at the time of the offence, the court may make an order (“a control order”) specifying one or more measures the offender, owner of the dog or both must take to ensure that the dog is kept under proper control in the future. Subsection (5) requires the court to set out its reasons for making the control order which must be entered into the register of its proceedings.
100. 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.
101. 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.

102. Subsections (7) and (8) set out 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.

Clause 31: Destruction order upon conviction under section 26

103. Subsections (1) and (2) of this clause set out 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”). Subsection (4) requires the court to set out its reasons for making the destruction order which must be entered into the register of its proceedings.

104. Subsection (3) sets out 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.

105. 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.

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

106. Subsections (1) and (2) provide 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. Subsection (5) requires the court to set out its reasons for making the disqualification order following conviction of an offence under clause 26 which must be entered into the register of its proceedings. Subsection (3) provides that the disqualification order may specify a period during which the offender is not allowed to make an application to end the order.

107. Subsection (4) sets out 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.

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

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

109. Subsection (1) 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.

110. 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.

111. Subsection (4) sets out 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.

112. 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.

113. 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.

114. Subsection (7) defines “appropriate court” for the purposes of this clause.

Clause 34: Termination of disqualification order

115. 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.

116. 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.

117. Subsection (6) explains that the court may order an applicant to pay all or part of the costs of an application.

118. Subsection (7) defines “appropriate court” for the purpose of this clause.

Clause 35: Sections 31 and 33: supplementary

119. Subsection (1) sets out what may be included in a destruction order.

120. 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.

121. 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.

122. 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.

Clause 36: Control, destruction and disqualification orders: appeals

123. 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.

124. 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.

125. Subsection (3) sets out what may be set out in directions.

126. 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.

127. Subsection (6) sets out that any expenses a person is directed to pay under this Part are recoverable as a civil debt.

General

Clause 37: Crown application

128. This clause sets out how this Part binds the Crown.

129. Subsection (2) of this clause sets out that the Crown is not criminally liable under this Part, 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.

130. Subsection (4) sets out that in circumstances where, except for subsection (2), the Crown would be criminally liable under this Act, the High Court may make a declaration in the matter.

131. Subsection (5) provides that if the Secretary of State certifies that in the interests of national security powers of entry granted in this Part should not be exercised in relation to Crown premises specified in the certificate, these powers cannot be exercised in relation to these premises. Subsection (6) defines “Crown premises” as meaning premises held, or used, by or on behalf of the Crown.

132. Subsection (7) explains that no power of entry given by this 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.

Clause 38: Regulations

133. Subsection (1) of this clause requires regulations made under this Part 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 this Part to be subject to the affirmative procedure.

Clause 39: Meaning of “worrying livestock”

134. Subsection (1) defines “worrying livestock” for the purposes of this Part. 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.

135. Subsection (3) defines what is meant by being “at large” and subsection (4) defines what is meant by “relevant livestock”. Subsection (5) enables the Secretary of State to amend the definition of “relevant livestock” through regulations made under the affirmative procedure.

Clause 40: General Interpretation

136. Subsection (1) defines terms used in this Act, including “agricultural land”, “destruction order”, “disqualification order”, “enclosed gamebirds” and “livestock”. Subsection (3) enables the Secretary of State to amend the definition of “livestock” through regulations made under the affirmative procedure.

137. 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.

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

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

Part 3: Other provisions about kept animals

Export of livestock

Clause 42: Exports of live animals: prohibition of export for slaughter etc

139. Subsection (1) of this clause prohibits the export of relevant livestock from Great Britain for slaughter

These Explanatory Notes relate to the Animal Welfare (Kept Animals) Bill as introduced in the House of Commons on 8 June 2021 (Bill 13)

and subsection (2) makes it an offence to contravene this prohibition.

140. 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.

141. 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. In Scotland, a person that commits an offence under this clause is liable on summary conviction to imprisonment for up to 6 months, 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 for if someone commits an offence under the clause in England or Wales should be read as 6 months instead of 51 weeks.

142. Subsection (7) defines “relevant livestock” for the purpose of this clause.

143. Subsection (8) repeals sections 40 to 49 of the Animal Health Act 1981 (provision relating to the export of horses) and also makes other amendments to that Act that are consequential to their repeal.

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

144. Subsection (1) of this clause empowers the appropriate national authority (the Secretary of State, Scottish Ministers or Welsh Ministers) to make regulations to provide for the enforcement of the prohibition on the export of live animals for slaughter. Subsections (2) and (3) provide a 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.

145. Subsections (4) and (5) describe and clarifies 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).

146. 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.

147. Subsection (8) defines “specified” for the purposes of this clause.

Animal welfare and retained direct EU law

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

148. Subsection (1) of this clause 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) provides Scottish Ministers with the same power under an equivalent regulation-making power in the Animal Health and Welfare (Scotland) Act 2006.

Importation of dogs, cats and ferrets

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

149. 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.

150. 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.

151. 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).

152. Subsection (6) inserts a definition of “motor vehicle” into the EU regulations.

153. Subsection (7) makes a consequential amendment to the Trade in Animal and Related Products Regulations 2011 which provides for the enforcement of the EU regulations.

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

154. Subsection (1) of this clause 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.

155. 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. 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,

156. 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.

157. 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. 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

158. Subsection (8) defines “enactment”, “mutilated”, “prescribed”, “relevant animal” and “unlawfully imported” for the purposes of this clause.

Zoos

Clause 47: Zoos

159. Subsection (1) of this clause gives effect to Schedule 5 (Zoos), which sets out amendments to the Zoo Licensing Act 1981 (“the 1981 Act”).

160. 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.

General

Clause 48: Meaning of “appropriate national authority” and “enactment”

161. This clause defines “appropriate national authority” and “enactment” for the purposes of this Part.

Clause 49: Regulations under Part 3

162. This clause provides that any regulations made under powers in this Part must be made by statutory instrument under the affirmative procedure (or equivalent in the Scottish Parliament and Senedd) and may include consequential, incidental, transitional or saving provisions and may include different provisions for different purposes and areas.

Part 4: General

Clause 50: Power to make consequential provision

163. 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.

164. Subsection (3) require 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.

Clause 51: Commencement

165. Subsections (1), (2) and (4) of this clause sets out when or how each provision in the Bill comes into force (see also paragraphs 192 to 194 below). Subsection (3) defines “appropriate national authority” for the purpose of commencing various provisions in Part 3 of the Bill.

166. Subsection (4) to (9) provides powers for the Secretary of State, Scottish Ministers and Welsh Ministers to make transitional or saving provisions in regulations that commence provisions in the Bill.

Clause 52: Extent

167. This clause sets out the territorial extent of each provision in the Bill (see also Annex A).

Clause 53: Short title

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

Schedules

Schedule 1: Primates: transitional provision relating to primates

169. This Schedule 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.

170. 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. It further establishes that the local authority as the enforcement body must inspect the premises in which the primate is being kept before granting an application for registration.

171. 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.

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

173. 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).

174. 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.

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

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

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

178.Paragraph 12 establishes the end date of the registration scheme.

Schedule 2: Offences relating to primates: fixed penalty notices

179.This Schedule 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.

180.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.

181.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..

Schedule 3: Decisions relating to primates: representations and appeals

182.This Schedule 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.

183.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.

Schedule 4: Powers of entry relating to primates

184. This Schedule 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.

185.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.

186. 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.

Schedule 5: Zoos

Introduction

187.This Schedule makes amendments to the 1981 Act.

Meaning of “zoo” for purposes of Act

188.Paragraph 2 amends the definition of a zoo in the 1981 Act to remove the exemption for circuses in section 1(2) of that Act that exempts wild animals exhibited in a circus from having to be licensed.

Under the Wild Animals in Circuses Act 2019 no vertebrate animal of a species not normally

These Explanatory Notes relate to the Animal Welfare (Kept Animals) Bill as introduced in the House of Commons on 8 June 2021 (Bill 13)

domesticated in Great Britain can be used in travelling circuses in England. Similar legislation for wild animals in travelling circuses (the Wild Animals in Travelling Circuses (Scotland) Act 2018 and the Wild Animals and Circuses (Wales) Act 2020) also applies in Scotland and Wales. The Wild Animals and Circuses (Wales) Act 2020 has already removed the exemption for circuses from the 1981 Act in relation to Wales.

Meaning of “local authority” for purposes of Act

189.Paragraph 3 amends the 1981 Act to ensure the particular form of local government for the Isles of Scilly is included in the description of local authorities that can enforce the Act.

Conservation measures etc

190.Paragraphs 4 to 14 amend the 1981 Act to extend the power for the Secretary of State to specify standards for zoos to include standards for conservation. The 1981 Act is amended to remove section 1A, and references to section 1A that specify current conservation requirements.

191.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.

Inspectors

192.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 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).

193.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.

Appeals against decisions of local authorities

194.Paragraph 17 amends the 1981 Act, in relation to England only, to transfer appeals involving licensing decisions of a local authority from the magistrates’ court to the First-tier Tribunal.

Increase in penalties for certain offences

195.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).

Commencement

196.Clause 51 deals with commencement of provisions in the Bill. Parts 1 (primates) and 2 (dogs attacking or worrying livestock) come into force in accordance with commencement regulations made by the Secretary of State.

197.In Part 3:

198.clause 42 (prohibition of export of livestock for slaughter etc.) comes into force in accordance with commencement regulations;

199.clauses 43 (enforcement of clause 42), 44 (other powers in connection with the welfare of transport of animals), 46 {power to prohibit or restrict importation of certain dogs, cats and ferrets} , 48 (meaning of “appropriate national authority”) and 49 (regulations under Part 3) come into force two months

following Royal Assent;

200.clause 45 comes into force six months after Royal Assent;

201.clause 47 and paragraphs 4 to 13 and 16 of Schedule 5 (Zoos) come into force in accordance with commencement regulations made by the appropriate national authority; and

202.subject to that, clause 47 and the remainder of Schedule 5 come into force two months after Royal Assent.

203.Part 4 (general) comes into force at Royal Assent.

Financial implications of the Bill

204.Provisions in the Bill 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) as noted in the accompanying impact assessment, 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).

Parliamentary approval for financial costs or for charges imposed

205.The Bill will require a money resolution. A money resolution is required where a Bill authorises new charges on the public revenue – broadly speaking, new public expenditure. The Bill will give rise to additional public expenditure for local authorities in respect of the implementation and operation of the new licensing regime in relation to the keeping of primates (and other animals, if the provisions of Part 1 are extended to them).

Compatibility with the European Convention on Human Rights

206.The government considers that the Bill is compatible with the European Convention on Human Rights (“ECHR”). Accordingly, the Secretary of State has made a statement under clause 19(1)(a) of the Human Rights Act 1998 to this effect.

207.The government’s ECHR analysis can be found in the memorandum to the Joint Committee on Human Rights.

Related documents

208.The following documents are relevant to the Bill and can be read at the stated locations:

- [Our Action Plan for Animal Welfare](#), May 2021.
- Defra consultation: [Primates as pets in England](#), October 2020.
- Defra and Welsh Government consultation: [Live animal exports: improvements to animal welfare in transport](#), December 2020.
- Scottish Government consultation: [Farm Animal Welfare Committee's opinion on the welfare of animals during transport](#), December 2020.

Annex - Territorial extent and application in the United Kingdom

Part 1 and Schedules 1 to 4 (primates) apply to England-only. Part 2 of the Bill (dogs attacking or worrying livestock) extend and apply to England and Wales. Part 3 and Schedule 5 (other provisions about kept animals) and the general provisions in Part 4 all extend and apply to Great Britain, except for paragraph 16 of Schedule 5 which extends to England and Wales.

Of those clauses that apply to England only, the view of the UK government is that each of those clauses and Schedules would be within the legislative competence of at least one of the devolved authorities.

Of those clauses that apply to England and Wales only, the view of the UK government is that each of those clauses would be within the legislative competence of at least one of the remaining devolved authorities.

There is a convention that Westminster will not normally legislate with regard to matters that are within the legislative competence of the Scottish Parliament, Senedd Cymru or the Northern Ireland Assembly without the consent of the legislative concerned.

To the extent that some of the provisions of the Bill fall within the legislative competence of the Scottish Parliament and Senedd Cymru, the legislative consent procedure would be appropriate.

Provision	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Extends and applies to Scotland?	Extends and applies to Northern Ireland?	Would corresponding provision be within the competence of Senedd Cymru?	Would corresponding provision be within the competence of the Scottish Parliament?	Would corresponding provision be within the competence of the Northern Ireland Assembly?	Legislative Consent Motion sought?
Clauses 1 to 25: Primates	Yes	No	No	No	Yes	Yes	Yes	No
Clauses 26 to 41: Dogs attacking or worrying livestock	Yes	Yes	No	No	No	Yes	Yes	No
Clauses 42 to 44: Export of livestock for slaughter	Yes	Yes	Yes	No	N/A	N/A	N/A	Yes (W, S)
Clauses 44 and 45: Movement and importation	Yes	Yes	Yes	No	N/A	N/A	N/A	Yes (W, S)

These Explanatory Notes relate to the Animal Welfare (Kept Animals) Bill as introduced in the House of Commons on 8 June 2021 (Bill 13)

Provision	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Extends and applies to Scotland?	Extends and applies to Northern Ireland?	Would corresponding provision be within the competence of Senedd Cymru?	Would corresponding provision be within the competence of the Scottish Parliament?	Would corresponding provision be within the competence of the Northern Ireland Assembly?	Legislative Consent Motion sought?
of dogs, cats and ferrets								
Clause 47: Zoos	Yes	Yes	Yes	No	N/A	N/A	N/A	Yes (W, S)
Clauses 48 and 49: Regulations under Part 3 etc	Yes	Yes	Yes	No	N/A	N/A	N/A	Yes (W, S)
Clauses 50 to 53: General	Yes	Yes	Yes	No	N/A	N/A	N/A	Yes (W, S)
Schedules 1 to 4: Primates	Yes	No	No	No	Yes	Yes	Yes	No
Schedule 5: Zoos	Yes	Yes	Yes	No	N/A	N/A	N/A	Yes (W, S)

Subject matter and legislative competence of devolved legislatures

In the opinion of the Her Majesty's Government, the subject matter of the Bill is within the devolved legislative competence of the Scottish Parliament (not being reserved to the Her Majesty's Government under Schedule 5 to the Scotland Act 1998). The subject matter of the Bill is also devolved to Senedd Cymru except in relation to the provisions dealing with dogs acting dangerously which are reserved in accordance with Schedule 7A to the Government of Wales Act 2006.

ANIMAL WELFARE (KEPT ANIMALS) BILL

EXPLANATORY NOTES

These Explanatory Notes relate to the Animal Welfare (Kept Animals) Bill as introduced in the House of Commons on 8 June 2021 (Bill 13).

Ordered by the House of Commons to be printed, 8 June 2021

© Parliamentary copyright 2021

This publication may be reproduced under the terms of the Open Parliament Licence which is published at www.parliament.uk/site-information/copyright

PUBLISHED BY AUTHORITY OF THE HOUSE OF COMMONS