

Animals (Penalty Notices) Bill

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Department for Environment, Food and Rural Affairs with the consent of Andrew Rosindell, the member in charge of the Bill, are published separately as Bill 32-EN.

Animals (Penalty Notices) Bill

[AS INTRODUCED]

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[AS INTRODUCED]

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BILL

TO

Make provision for and in connection with the giving of penalty notices for certain offences relating to animals and animal products.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Fixed penalty notices

1 Powers of enforcement authorities

- (1) Where an enforcement authority for a relevant offence is satisfied beyond reasonable doubt that a person has committed the offence in England, the authority may issue a fixed penalty notice under this section to the person. 5
- (2) In this Act “relevant offence” means an offence within subsection (3) that is specified by regulations made by the Secretary of State.
- (3) The offences within this subsection are—
 - (a) an offence under regulations made under section 2(2) of the European Communities Act 1972 which the Secretary of State considers relates to animals or animal products; 10
 - (b) an offence under the Dangerous Wild Animals Act 1976;
 - (c) an offence under section 19 of the Zoo Licensing Act 1981;
 - (d) an offence under the Animal Health Act 1981;
 - (e) an offence under the Animal Welfare Act 2006 or under regulations made under section 12 or 13 of that Act; 15
 - (f) an offence under the Wild Animals in Circuses Act 2019.
- (4) In this Act an “enforcement authority”, for a relevant offence, is a person who is specified in relation to the offence by regulations made by the Secretary of State (and the regulations may specify more than one person in relation to any relevant offence). 20
- (5) The persons who may be specified by regulations under subsection (4) are—
 - (a) the Secretary of State,
 - (b) a local authority, or
 - (c) any other person that the Secretary of State considers appropriate. 25

- (6) A fixed penalty notice issued under this section may be withdrawn at any time by the authority that issued it.

2 Powers of constables

- (1) Where a constable is satisfied beyond reasonable doubt that a person has committed a specified dangerous dogs offence in England or Wales, the constable may issue a fixed penalty notice under this section to the person. 5
- (2) In this section “specified dangerous dogs offence” means an offence within subsection (3) that is specified by regulations made by the Secretary of State.
- (3) The offences within this subsection are offences under sections 1, 3 and 4(8) of the Dangerous Dogs Act 1991. 10
- (4) A fixed penalty notice issued under this section may be withdrawn at any time by the constable that issued it or another constable in the same police force.

3 Content and effect of notices

- (1) This section applies to a fixed penalty notice under section 1 or 2. 15
- (2) A fixed penalty notice is a notice giving the person to whom it is issued the opportunity to discharge any liability to conviction for the offence to which it relates by payment of an amount specified in the notice within the relevant period.
- (3) The amount specified in a fixed penalty notice may not exceed whichever is the lesser of— 20
- (a) £5,000, and
 - (b) the maximum fine for which a person convicted of the offence is liable on summary conviction.
- (4) The relevant period is the period of 28 days beginning with the date on which the fixed penalty notice is issued. 25
- (5) A fixed penalty notice must explain—
- (a) that the person issuing the notice is satisfied that the person has committed the offence, and why,
 - (b) the effect of subsection (6), and 30
 - (c) when and how payment may be made.
- (6) Where a fixed penalty notice is issued to a person (and has not been withdrawn)—
- (a) no proceedings may be instituted for the offence before the end of the relevant period, and 35
 - (b) the person may not be convicted of the offence if the person pays—
 - (i) the full amount of the fixed penalty in the notice before the end of the relevant period, or
 - (ii) 50% of that amount before the end of the period of 14 days beginning with the date on which the relevant period starts. 40

- (7) Where proceedings are instituted for the offence after the end of the relevant period, that period is to be disregarded for the purposes of calculating the period mentioned in section 127(1) of the Magistrates' Court Act 1980.

4 Matters to be taken into account

- (1) An enforcement authority for a relevant offence or a constable must take into account the matters mentioned in subsection (2) in deciding— 5
- (a) whether to issue a fixed penalty notice to a person under section 1 or 2, and
 - (b) the amount to be specified in the notice.
- (2) The matters are— 10
- (a) the seriousness of the conduct to which the proposed notice relates (the “relevant conduct”);
 - (b) the duration of the relevant conduct;
 - (c) any evidence of intention behind the relevant conduct;
 - (d) any evidence of previous acts or omissions by the person similar to the relevant conduct; 15
 - (e) any action taken by the person to eliminate or reduce any risk of harm resulting from the relevant conduct;
 - (f) any action taken by the person to remedy or mitigate any harm resulting from the relevant conduct; 20
 - (g) whether the person reported the relevant conduct to the enforcement authority or constable;
 - (h) the conduct of the person after the relevant conduct is drawn to their attention by the enforcement authority or constable.
- (3) The Secretary of State must give guidance about— 25
- (a) additional matters to be taken into account in deciding whether to issue a fixed penalty notice;
 - (b) additional matters to be taken into account in deciding the amount to be specified in the notice;
 - (c) how the matters mentioned in subsection (2) and any additional matters of the kind mentioned in paragraph (a) or (b) are to be taken into account. 30
- (4) The guidance must be laid before Parliament after it is given.
- (5) An enforcement authority for a relevant offence or constable must have regard to the guidance. 35

5 Use of proceeds

- (1) Sums received by enforcement authorities for relevant offences or chief officers of police for police forces pursuant to fixed penalty notices issued under section 1 or 2 must be paid into the Consolidated Fund.

- (2) *But before paying such sums into the Consolidated Fund an enforcement authority for one or more relevant offences or chief officer of police for a police force may deduct—*
- (a) *the costs of investigating offences to which fixed penalty notices issued under section 1 or 2 by the authority, or by constables in the police force in question, relate, and* 5
 - (b) *the costs of issuing the notices.*

General

6 Reports

- (1) As soon as reasonably practicable after the end of each financial year an enforcement authority for one or more relevant offences (other than the Secretary of State) or the chief officer of police for a police force must give to the Secretary of State a report containing the following information in relation to that year— 10
- (a) the number of fixed penalty notices issued under section 1 or 2 by the authority or by constables in the police force in question; 15
 - (b) the amounts specified in the notices;
 - (c) the offences to which the notices relate.
- (2) The Secretary of State must produce and publish a report for each financial year containing— 20
- (a) the information provided to the Secretary of State under subsection (1), and
 - (b) in relation to fixed penalty notices issued under section 1 by the Secretary of State during that year, information about— 25
 - (i) the number of fixed penalty notices issued; 25
 - (ii) the amounts specified in the notices;
 - (iii) the offences to which the notices relate.
- (3) In this section “financial year” means—
- (a) the period beginning with the day on which this section comes into force and ending with the following 31 March, and 30
 - (b) each successive period of 12 months.

7 Regulations

- (1) Regulations under section 1 or 2 may contain transitional provision.
- (2) Regulations under section 1 or 2 are to be made by statutory instrument.
- (3) A statutory instrument containing regulations under section 1 or 2 is subject to annulment in pursuance of a resolution of either House of Parliament. 35

8 Interpretation

In this Act—

“enforcement authority”, for a relevant offence, has the meaning given by section 1(4);

“local authority” means—

- (a) a district council or county council in England,
- (b) a London borough council,
- (c) the Common Council of the City of London, or
- (d) the Council of the Isles of Scilly;

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“relevant offence” has the meaning given by section 1(2).

9 Extent, commencement and short title

- (1) This Act extends to England and Wales only. 10
- (2) Section 1(2) to (5), 2(2) and (3), 4(3) and (4), 7 and 8 and this section come into force at the end of the period of two months beginning with the day on which this Act is passed.
- (3) The other provisions of this Act come into force on such day or days as the Secretary of State may by regulations made by statutory instrument appoint. 15
- (4) This Act may be cited as the Animals (Penalty Notices) Act 2021.

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*Presented by Andrew Rosindell
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