

ANIMAL WELFARE (KEPT ANIMALS) BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Animal Welfare (Kept Animals) Bill introduced in the House of Commons on 11 May 2022 (Bill 2).

- 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.

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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 incorporates a range of ancillary orders that courts may make to address more effectively incidents of reoffending in the most serious cases of livestock worrying. It also broadens the definition of livestock which are currently afforded protection and extends the offence to cover livestock worrying incidents on roads and paths.
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 amends retained direct EU legislation to decrease 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. The amendments to that Act include amendments to increase the 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 amendments also 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 in line with best practice.
5. The Bill was carried over into the current Parliamentary session due to the exceptional pressure placed on the Parliamentary timetable in the previous session. In the 2021-2022 session the Bill passed the Commons Committee stage. The money resolution and ways and means resolution for the Bill, approved by the House in the last session, continue to apply to the Bill.
6. Since the Bill was first introduced, a number of government amendments were made to the Bill at the Commons Committee stage. These amendments were:
 - the extension of Part 1 of the Bill (primates) to Wales and clarification of local authority powers to issue or vary licences;
 - drafting changes to the definitions of livestock in Parts 2 and 3 (dogs attacking or worrying livestock and the prohibition of export of livestock for slaughter) to clearly outline the range of animals covered by those provisions;
 - an increase in the penalties relating to the prohibition on the export of livestock that can be applied by the Scottish courts and a widening of the definitions of Scottish courts in the Bill;
 - the extension of powers to amend or revoke retained direct EU legislation so that changes to regulations made under the European Communities Act 1972 can also be included in all regulations made under the Animal Welfare Act 2006 and the

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Animal Health and Welfare (Scotland) Act 2006;

- the introduction of a new offence around the taking and detention of pets without lawful authority;
- the extension of powers to make secondary legislation on the importation of pets to allow regulations to include cost recovery provisions relating to seized pets;
- minor amendments to the Animal Welfare Act 2006 to ensure that certain provisions apply to offences and functions in secondary legislation made under that Act; and
- additional powers for the devolved administrations to repeal and amend legislation covering devolved matters.

Policy background

7. 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.
8. 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.
9. 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 and courts 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.
10. 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

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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. A consultation was launched in August 2021 to seek views on measures to: increase the minimum age at which dogs can be brought into Great Britain; prohibit the commercial and non-commercial movement into Great Britain of dogs with cropped ears and docked tails; and prohibit the commercial and non-commercial movement of heavily pregnant dams (female dog) into Great Britain.

11. The Bill includes a new offence of taking a dog without lawful authority or reasonable excuse. The government set up the Pet Theft Taskforce to gather evidence to understand the factors that may be contributing to a perceived or real rise in pet thefts during the COVID-19 pandemic and to recommend measures to tackle the problem. The Taskforce published a report in September 2021 which noted that it is already a criminal offence to steal a pet but suggested that a specific “pet abduction” offence would more clearly recognise that pets are not mere items of property and would give greater recognition to the impact on the animal, in addition to its owner, when it is unlawfully taken. The Taskforce said that the scope of the offence should include dogs, but other animals should be considered as the policy is developed. g.
12. 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 government manifesto commitment to introduce a ban on the keeping of primates as pets in England, which will also extend to Wales. 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 and enabling 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. A 12-week targeted consultation was launched by Defra in March 2022 to seek views on draft new Standards of Modern Zoo Practice for Great Britain. The draft standards include new, more detailed requirements for conservation, taking into account the range of conservation work zoos do. The targeted consultation sought the views of licensed zoos, local authorities, zoo licensing inspectors and a number of veterinary and animal welfare organisations. The Bill also increases the current penalties under the Zoo Licensing Act 1981 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.
13. 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

14. 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 in the UK are only

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protected animals to the extent that they are under the control of man or are not living independently in the wild.

15. 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 under the Act (although the codes themselves are not all legally enforceable).
16. 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 as pets 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 also been published under the 2006 Act.
17. The 2006 Act also prohibits the mutilation of any protected animal unless the procedure has been exempted from the general prohibition by regulations made under the Act. It also prohibits the docking of a dog's tail, other than for medical treatment or if the dog is a certified working dog and is not more than five days old. The Act does not prevent such mutilations being carried out overseas or animals with these mutilations from being imported into Great Britain, but it is an offence under the Act to show a dog with a docked tail at an event to which members of the public are admitted on payment of a fee.

Retained direct EU legislation

18. 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.
19. 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 into Great Britain.

The Dogs (Protection of Livestock) Act 1953 and connected legislation

20. The Dogs (Protection of Livestock) Act 1953 deals with dogs that chase or attack livestock in England, Wales and Scotland (known as livestock worrying).
21. Separately, the Animals Act 1971 provides that the keeper of a dog that causes damage by killing or injuring livestock is liable for the damage caused and makes provision for cases where a dog worrying or attacking livestock is injured or killed by a person in the course of protecting livestock.

The Theft Act 1968 and legislation dealing with stray dogs

22. The Theft Act 1968 makes it an offence in England and Wales for a person to dishonestly appropriate property belonging to another with the intention of permanently depriving the other of it. The term "property" includes kept animals of all descriptions whether kept as pets, livestock, working animals, etc.
23. The Environmental Protection Act 1990 sets out what a person must do if they find and take possession of a stray dog in England and Wales. Any person who takes possession of a stray dog must either return the dog to its owner or take it to the local authority for the area in which the dog was found.

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The Dangerous Wild Animals Act 1976

24. 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.
25. The definition of “local authority” in that Act does not currently include the Council of the Isles of Scilly.

The Animal Health Act 1981

26. 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

27. The Zoo Licensing Act 1981 (the 1981 Act) 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 measures” that zoos must undertake. Conservation measures includes activities such as: research relating to the conservation of wild animals; training in relevant conservation skills; the exchange of information relating to the conservation of species of wild animals; breeding of wild animals in captivity; or the repopulation or reintroduction of wild animals into the wild.
28. 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, which are provided for under section 9 of the 1981 Act. The powers in section 9 can be used from time to time by the Secretary of State following consultation with such zoo licensing inspectors (as appointed under section 8 of the 1981 Act) and other such persons as the Secretary of State thinks fit.
29. 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.

Prohibition on use of wild animals in circuses

30. Under the Wild Animals in Circuses Act 2019 no vertebrate animal of a species not normally 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) applies in Scotland and Wales.

Territorial extent and application

31. Clause 54 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 (the taking of dogs without lawful authority) England and Wales (Parts 1 and 2) and Great Britain (Part 3, except provisions relating to the taking of dogs)
32. 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.

Commentary on provisions of Bill

Part 1: Primates

Chapter 1: Keeping Primates

Licensing requirement

Clause 1: Prohibition on keeping primates without a licence

33. 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 and Wales 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.
34. Subsection (3) outlines the exemptions to the prohibition where the primate is kept under a licence granted under the Zoo Licensing Act 1981 or section 2C of the Animals (Scientific Procedures) Act 1986.
35. Subsection (4) provides that the prohibition on keeping primates is subject to a direction under clause 15 and the provisions in Schedule 1.
36. 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

37. Subsection (1) of this clause establishes that the holder of a primate licence is permitted to keep, at the premises specified in the licence, the number and species of primate set out in the holder's licence.
38. Subsection (2) outlines that a primate licence is valid for six years from the date it comes into force, subject to the provisions in this Chapter.

Clause 3: Licensing standards and other requirements

39. Subsection (1) of this clause provides that the appropriate national authority must, by regulations, set licensing standards for the care and management of primates to be kept under primate licences.
40. Subsection (2) outlines a non-exhaustive list of examples of areas of care and management of primates that the licensing standards may address.
41. Subsection (3) enables the appropriate national authority to make regulations requiring the holder of a primate licence to provide the relevant local authority with specified information in relation to any primate kept under the licence and to microchip any such primate.
42. Subsection (4) requires the appropriate national authority to consult appropriate persons before making regulations under subsection (1).

Primate licences: operation

Clause 4: Applications

43. Subsections (1) and (2) of this clause enable a person who keeps or proposes to keep a primate

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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.

44. Subsections (3) to (5) outline the information required from applicants as part of the application process for a primate licence.
45. 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 2006; section 1 of the Protection of Animals (Amendment) Act 1954; section 40(1) of the Animal Health and Welfare (Scotland) Act 2006; or section 33(1) of the Welfare of Animals Act (Northern Ireland) 2011.

Clause 5: Determination of applications

46. 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.
47. 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.
48. 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 and attach an appropriate rectification condition to the licence. Subsection (4) requires the local authority to refuse the application under any other circumstances.
49. Subsection (6) introduces Schedule 3 which contains provision for making representations or appeals against a decision to refuse an application for a primate licence.

Clause 6: Conditions

50. Subsections (1) and (2) of this clause establish that licence holders are required to meet the licensing standards and comply with any requirements in regulations made under clause 3(3).
51. Subsections (3) to (5) empower inspectors to attach one or more "rectification conditions" to any primate licence that it grants under clause 5(3). This requires licence holders to take any actions that inspectors consider to be necessary within a specified time period to ensure that all licensing standards are met.

Clause 7: Variation and surrender

52. Subsections (1) and (2) of this clause provide for the variation of a primate licence where the holder of a primate licence proposes to reduce or increase the number of primates or add or remove a species of primate, kept under the licence, or to move the primates to other premises within the area of the local authority that granted the licence.
53. 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.
54. Subsection (4) provides that a primate licence may be surrendered by the holder at any time.
55. Subsection (5) refers to Schedule 3 which sets out rights to make representations and appeals.

Clause 8: Renewal

56. Subsections (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

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be made in the first six months of the final year before it expires.

57. Subsection (3) establishes that the local authority may specify what information is required for a renewal application.
58. Subsections (4) and (5) establish that any licence renewal is subject to a veterinary surgeon's inspection of the licence holder's premises to determine if the primate licence would continue to meet the licensing standards if the licence was renewed. If the local authority is satisfied that the licensing standards will continue to be met, it must renew the licence for a further period of six years. Subsection (6) provides 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 for a further six years, subject to one or more rectification conditions. Subsection (7) establishes that under any other circumstances the renewal application must be refused.
59. Subsection (9) refers to Schedule 3 which sets out rights to make representations and appeals against a decision to refuse a renewal application.
60. Subsections (10) and (11) provide that a licence renewal takes effect from the end of the previous licence period and a primate licence may be renewed multiple times.

Clause 9: Death of a licence holder

61. Subsection (1) states that the provisions in this clause apply upon the death of the holder of a primate licence.
62. 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.
63. 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. The personal representative 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 for a period of up to six months from the death of the licence holder.

Inspections and fees relating to primate licences

Clause 10: Inspections of licensed premises

64. Subsection (1) of this clause establishes that a local authority may arrange for a suitable person to inspect the 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

65. This clause provides for a local authority to charge fees from applicants and primate licence holders in respect of applications relating to primate licences and inspections carried out under this Chapter.

Enforcement of primate licences

Clause 12: Offences

66. Subsection (1) of this clause provides that an individual will have committed an offence if

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they fail to comply with the general licence condition, but subsection (2) establishes that it is a defence for a person to prove they took reasonable steps to comply with the general licence condition.

67. Subsection (3) sets the penalty for offences 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 fixed penalty notices.

Clause 13: Rectification notices

68. Subsection (1) of this clause establishes that a local authority may serve a rectification notice on a licence holder if the licence holder is failing to meet one or more of the licence standards.
69. Subsections (2) and (3) provide that a rectification notice must state the reason for the notice, the actions the licence holder must take, the deadline for taking action, and the notice's effect on proceedings in relation to the non-compliance that gave rise to the rectification 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 in total.
70. 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 clause as a fine not exceeding level 4 on the standard scale. Subsection (7) refers to Schedule 2 which provides for the issue of fixed penalty notices and Schedule 3 which gives details of the rights to representations and appeals.

Clause 14: Revocation etc of licence

71. 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 clause 1 or 17. 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 the 2006 Act or an offence under clause 1 or 17.
72. Subsection (3) lists other circumstances in which the local authority may also revoke or vary a primate licence, such as if the holder fails to comply with the general licence condition, allow access for an inspection, pay a fee or take the steps outlined in a rectification notice.
73. Subsection (4) specifies that a local authority may vary a primate licence under subsection (3) by reducing the number of primates or any primate species permitted to be kept under the licence.
74. Subsection (5) refers to Schedule 3 which sets out provisions on representations and appeals against decisions to revoke or vary a licence under clause 14.

Primate kept without a primate licence

Clause 15: Directions

75. Subsection (1) provides that this clause applies when a local authority is satisfied that a primate is being kept unlawfully in its area.
76. Subsection (2) enables 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").
77. Subsection (4) requires the local authority to direct the keeper to take certain action during the suspension period and empowers the local authority to give the keeper other directions that it considers appropriate..

78. Subsection (5) provides that if the local authority is satisfied that the keeper has failed to comply with a direction, it may revoke it and the keeper then becomes subject to the prohibition in clause 1 from the date of the revocation of the direction.

Clause 16: Forfeiture

79. Subsections (1) to (3) of this clause enable a local authority to apply to the magistrates' court for a forfeiture order where a person is convicted of the offence under clause 1 or has discharged liability for the offence in accordance with any fixed penalty notice. A forfeiture order may require the primate to be 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.
80. 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.
81. Subsections (8) and (9) provide 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 effect, including directions for the primate to be handed over to another person, directions conferring powers of entry or directions requiring the payment of expenses.

Chapter 2: Selling and breeding primates

Clause 17: Selling primates etc to unlicensed persons

82. Subsection (1) makes it an offence for any person to sell, gift, or otherwise transfer a primate to another person. The offence applies where the person who sells, gifts or otherwise transfers the primates knows, or has reasonable grounds to suspect, that the person will keep the primate in contravention of clause 1(1) (i.e. without a relevant primate licence or in a place other than a zoo or establishment which is licensed under the 1981 Act or the Animals Scientific Procedures Act 1986 and permitted to keep the primate).
83. Subsections (2) and (3) provide that any person found to have committed an offence under this clause will be liable to a fine or may be issued with a fixed penalty notice under Schedule 2.

Clause 18: Breeding primates

84. This clause provides that a person commits an offence where the person takes steps to secure that a primate kept by that person without a relevant authorisation (see subsection (2)) breeds with another primate or knowingly keeps two or more primates together without a relevant authorisation in circumstances where the primates have not been neutered and may breed. . 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

85. This clause confers powers of entry to be used in relation to offences under clauses 1, 12, 17 and 18.

Oversight of local authority functions

Clause 20: Guidance

86. Subsection (1) of this clause provides that the appropriate national authority may issue guidance to local authorities in respect of their functions under this Part. Subsection (2) includes a non-exhaustive list of matters that may be included in the guidance. Subsection (3) requires the guidance to be laid before Parliament or Senedd, as appropriate, and subsection (4) requires any such guidance to be published.
87. Subsection (5) requires local authorities to have regard to relevant guidance when carrying out their functions under this Part.

Clause 21: Information

88. Subsection (1) of this clause allows the appropriate national authority to request information from local authorities about the number of primate licences in force in their areas, the primates kept under primate licences in their areas and other matters, which the local authorities must then provide. Subsection (2) enables the appropriate national authority to require that this information is provided within a period of at least a month.

General

Clause 22: Power to extend Part 1

89. This clause provides the appropriate national authority with powers, by regulation, to amend this Part of the Bill to extend the licensing regime to other wild animals (i.e. animals which are not normally domesticated in Great Britain). Before exercising this power, the appropriate national authority must consult appropriate persons.

Clause 23: Meaning of “keep”

90. This clause defines “keep” for the purposes of this Part. .

Clause 24: General interpretation

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

Part 2: Dogs attacking or worrying livestock

Attacking or worrying livestock

Clause 25: Offence where dog attacks or worries livestock

92. Subsection (1) of this clause provides that a person who owns or is in charge of a dog is guilty of an offence if the dog attacks or worries livestock on any agricultural land or a road or path.
93. 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 occupier of the land, unless the person 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 is in charge of the dog will not be guilty of an offence unless the person causes the dog to attack the livestock.
94. Subsection (4) sets out the circumstances in which the owner of a dog that has attacked or worried livestock will not be guilty of an offence under this clause.
95. Subsection (5) provides that a person found guilty of an offence under this clause is 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 found guilty of an offence.

These Explanatory Notes relate to the Animal Welfare (Kept Animals) Bill as introduced in the House of Commons on 11 May 2022 (Bill 2).

Powers before conviction

Clause 26: Seizure and detention of dogs

96. This clause sets out the circumstances, described in subsections (1) and (7), in which a constable may seize and detain a dog in relation to the offence of attacking or worrying livestock.
97. Subsection (2) provides that a constable who seizes a dog in the circumstances described in subsection (1) may detain the dog for the purpose of ascertaining who its owner is. It further provides that the dog may be detained until the owner has claimed the dog and paid all expenses incurred as result of the dog's detention.
98. Subsection (3) explains what can be done to any dog seized under subsection (2) if they are not claimed after seven days. Subsection (4) provides that if a person takes possession of a seized dog in good faith, that person becomes the owner of the dog. Subsections (5) and (6) require the chief officer of police for each police area to ensure that a register of seized dogs is kept and made available to the public free of charge.
99. Subsections (7) and (8) empower the police to seize and detain any dog where a constable has reasonable grounds to believe that the dog poses an ongoing risk to livestock. Subsection (8) further sets out the period of any such detention. Subsection (9) requires the owner of a dog seized and detained under subsection (8) to pay all expenses incurred as a result of its seizure and detention.

Clause 27: Collection of samples and impressions

100. Subsections (1) to (4) of this clause enable a constable to take samples or impressions from a dog or livestock for the purpose of obtaining evidence of the commission of an offence under clause 25.
101. Subsection (5) provides that if the act of taking a sample would amount to an act of a veterinary surgery, it must be done by a veterinary surgeon and subsection (6) sets out how long samples taken under this clause may be kept. Subsection (7) defines "sample", "veterinary surgeon" and "veterinary surgery" for the purpose of this clause.

Clause 28: Power of justice of the peace to authorise entry and search

102. This clause enables a warrant to be issued by a justice of the peace authorising the entry and search of premises by a constable. The justice of the peace who issues a warrant under this clause must be satisfied that there are reasonable grounds to believe that an offence under clause 25 has been committed. .
103. Subsection (5) provides that a warrant under this clause may authorise the constable to use reasonable force if necessary.

Orders available after conviction etc

Clause 29: Control order upon conviction under section 25

104. Subsections (1) to (3) of this clause provide that if a person is convicted of an offence under clause 25 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, the owner of the dog or both must take to ensure that the dog is kept under proper control in the future.
105. Where the offender is not the owner of the relevant dog, under subsection (4) o, the court can only make a control order if the owner has been given an opportunity to be heard or the court is satisfied that it is not reasonably practicable to communicate with the owner.

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106. 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. 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.
107. Subsections (7) and (8) provide 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 30: Destruction order upon conviction under section 25

108. Subsections (1) and (2) of this clause provide that when a person is convicted of an offence under clause 25 and the court is satisfied that the relevant dog is, and will continue to be, a danger to livestock, the court may order the relevant dog to be destroyed (“a destruction order”).
109. Where the offender is not the owner of the relevant dog, under subsection (3), 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 practicable to communicate with the owner. 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.
110. Subsection (5) provides that the offender as well as the owner of the dog may appeal against a destruction order to the Crown Court.

Clause 31: Disqualification order upon conviction under section 25 or breach of control order

111. Subsections (1) and (2) provide that when a person is convicted of an offence under clause 25 or 29(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 (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.
112. Subsection (4) allows the court to suspend the operation of a disqualification order if the offender owns or keeps a dog so that alternative arrangements can be made for the dog. Subsection (5) requires the court to set out its reasons for making a disqualification notice in open court and enter the reasons in a register of the court’s proceedings.
113. 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 32: Seizure and disposal of dogs in connection with disqualification order

114. Subsection (1) provides that when a court makes a disqualification order and the person to whom the order applies appears to the court to own or keep a dog contrary to the order, the court may order that the dog be taken into possession.
115. Subsection (2) and (3) provide that where a person is convicted under clause 31(6) for 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 be taken into possession. 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.
116. Subsection (4) requires any dog that is taken into possession and is not owned by the person subject to the disqualification order to be dealt with in the manner required by the appropriate court.
117. Subsection (5) provides that a court may only make an order for the 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 practicable to communicate with the owner.

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118. Subsection (6) sets out that the owner of the dog may appeal to the Crown Court against an order made for the disposal of the dog under subsection (4).
119. Subsection (7) defines “appropriate court” for the purposes of this clause.

Clause 33: Termination of disqualification order

120. Subsection (1) of this clause provides 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) sets out the powers of the court in relation to an application and subsection (4) sets out what the court must consider when considering an application.
121. 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.
122. Subsection (6) provides that the court may order an applicant to pay all or part of the costs of an application.
123. Subsection (7) defines “appropriate court” for the purpose of this clause.

Clause 34: Sections 30 and 32: supplementary

124. Subsection (1) of this clause sets out what may be included in a destruction order or an order under clause 32.
125. Subsections (2) and (3) provide that a person commits an offence if the person has possession of a dog to which the order applies and fails to comply with a requirement imposed under such an order to deliver up the dog and is liable to pay a fine not exceeding level 3 on the standard scale.
126. Subsection (4) sets out that directions may specify how a dog is to be disposed of or may delegate the decision about how a dog is to be disposed of to a person appointed under such an order. When taking such decisions, subsections (5) and (6) provide that the court or appointed person must 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.
127. Subsection (7) provides that any amount to which the owner is entitled as a result of the sale of the dog may be deducted from the expenses the owner has been ordered to pay.

Clause 35: Control, destruction and disqualification orders: appeals

128. Subsection (1) of this clause sets out that nothing may be done to a dog to which an order under clauses 29 to 32 applies 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.
129. Subsection (2) provides that if such 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.
130. Subsection (3) sets out what may be included in directions. Subsections (4) and (5) provide that a person who fails to comply with a direction to deliver up the dog is guilty of an offence and is liable to pay a fine not exceeding level 3 on the standard scale.
131. Subsection (6) sets out that any expenses a person is directed to pay under this Part are recoverable as a civil debt.

General

Clause 36: Crown application

132. This clause sets out how this Part binds the Crown.
133. 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.
134. Subsection (4) provides that in circumstances where, but for subsection (2), the Crown would be criminally liable under this Part, the High Court may make a declaration to that effect.
135. Subsection (5) enables the Secretary of State to disapply powers of entry granted in this Part in relation to Crown premises where the Secretary of State considers it appropriate to do so in the interests of national security. In these circumstances, Secretary of State must certify that this is the case and specify the premises to which the powers of entry do not apply. Subsection (6) defines “Crown premises” as meaning premises held, or used, by or on behalf of the Crown.
136. Subsection (7) explains that no power of entry conferred by this Part 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 construed in accordance with section 1 of the Crown Private Estates Act 1862.

Clause 37: Meaning of “worrying livestock”

137. 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.
138. 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 38: General Interpretation

139. Subsection (1) defines terms used in this Part, including “agricultural land”, “destruction order”, “disqualification order”, “enclosed gamebirds” and “livestock”. Subsection (2) provides that references to “disposing of a dog” includes destroying it but does not include disposing of it for the purpose of vivisection. Subsection (3) enables the Secretary of State to amend the definition of “livestock” through regulations made under the affirmative procedure.

Clause 39: Repeal of the 1953 Act in England and Wales

140. This clause repeals the Dogs (Protection of Livestock) Act 1953 in so far as it extends and applies to England and Wales. That Act will continue to apply to Scotland.

Part 3: Other provisions about kept animals etc

Export of livestock

Clause 40: Prohibition of export for slaughter etc

141. Subsection (1) of this clause prohibits the export of relevant livestock from Great Britain for slaughter and subsection (2) makes it an offence to contravene this prohibition.

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142. 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.
143. 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 six months, to a fine not exceeding level five on the standard scale or both. Subsection (6) provides that until section 281(5) of the Criminal Justice Act 2003 comes into force, the imprisonment term in England and Wales should be read as six months instead of 51 weeks.
144. Subsection (7) defines “relevant livestock” for the purpose of this clause.
145. Subsection (8) repeals sections 40 to 49 of the Animal Health Act 1981 (provision relating to the export of horses) and makes other amendments to that Act that are consequential to their repeal.

Clause 41: Power to make provision in connection with the enforcement of section 40

146. 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 relevant livestock for slaughter. Subsections (2) and (3) provide 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 civil sanctions and a power to amend or revoke any retained direct EU legislation.
147. Subsections (4) and (5) describe and clarify the “civil sanctions” that may be imposed under regulations relating to the enforcement of clause 40. Subsection (6) clarifies the scope of criminal offences that can be created in relation to regulations made under subsection (1).
148. Subsection (7) further restricts the regulations from including provisions that confer powers of entry without the authority of a warrant where entry would be exercisable in relation to a private dwelling without the consent of the occupier or it would allow for the reasonable use of force.
149. Subsection (8) defines “specified” (in relation to a “specified person”) for the purposes of this clause.

Animal welfare and retained direct EU legislation

Clause 42: Powers to amend or revoke retained direct EU law

150. Subsections (1) and (2) of this clause amend section 12 of the 2006 Act (regulations to promote welfare) and Schedule 1 to that Act (regulations under section 13: licensing and registration) to enable the Secretary of State and the Welsh Ministers to amend or revoke retained direct EU legislation and any enactments made under section 2(2) of the European Communities Act 1972 in regulations made under those provisions in the 2006 Act. Subsections (3) and (4) provide the Scottish Ministers with the same powers under equivalent regulation-making provisions in the Animal Health and Welfare (Scotland) Act 2006.

Taking of pets

Clause 43: Taking of a dog without lawful authority etc

151. Subsection (1) of this clause introduces an offence of taking or detaining a dog in England, without lawful authority or reasonable excuse. The offence is committed where the taking or

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detention of the dog results in the removal of the dog from the lawful control of any person or in the keeping of the dog from any person who is entitled to have lawful control of it.

152. Subsection (2) confirms that an offence is not committed under this clause if the person taking or detaining the dog is connected with any person who is entitled to have lawful control of the dog.
153. Subsection (3) sets out the penalties for those committing an offence under this clause, which includes a maximum of five years imprisonment, a fine, or both, on indictment.
154. Subsection (4) includes definitions of “connected person”, “detaining”, “taking” and other terms for the purposes of this clause.

Clause 44: Power to extend section 43

155. Subsections (1) and (2) of this clause grant a power to the Secretary of State to make regulations to apply the offence in clause 43 to other species of pet animals where there is evidence that such animals are capable of forming bonds with their owners and where the removal of such an animal from its owner may adversely affect its wellbeing.
156. Subsection (3) requires the Secretary of State to consult appropriate persons before making regulations under this clause.

Importation of dogs, cats and ferrets

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

157. This clause amends Regulation (EU) No 576/2013 and connected regulations to limit the number of dogs, cats and ferrets that may be moved into Great Britain on a non-commercial basis.
158. Subsection (2) inserts new paragraph A1 into Article 5 of the Regulation (EU) No 576/2013 to limit the number of dogs, cats and ferrets that may be moved into Great Britain in a motor vehicle to five animals.
159. Subsection (3) amends paragraph 1 of the that Regulation to reduce the number of pets that may accompany a person when travelling by any way other than by 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 Regulation (EU) No 576/2013 which are consequential to the amendments made by subsections (2) and (3).
160. Subsection (6) inserts a definition of “motor vehicle” into the Regulation (EU) No 576/2013.
161. Subsections (7) to (9) make consequential amendments to secondary legislation in England, Scotland and Wales which supplements Regulation (EU) No 576/2013.

Clause 46: Power to prohibit or restrict importation of certain dogs, cats and ferrets

162. Subsection (1) of this clause enables the appropriate national authority to make regulations about the importation of relevant animals (dogs, cats or ferrets) into Great Britain for the purpose of promoting their welfare.
163. Subsection (2) provides that the regulations may in particular prohibit or restrict imports of relevant animals where they are below a prescribed age, have been mutilated (e.g. dogs with docked tails or cropped ears) or are heavily pregnant. Subsection (3) allows regulations to include provisions relating to specified exemptions and the issue of permits and subsection (4) provides that the regulations may make provision about enforcement. Subsection (5) 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.
164. Subsection (6) provides powers to make regulations to impose monetary penalties for offences under other enactments that concern the welfare or health of imported animals covered by this clause.
 165. Subsection (7) provides a non-exhaustive list of provisions that may be included in the regulations, including the conferral of functions on specified persons the conferral of powers of entry and the creation of new criminal offences. Subsection (8) limits the power to create new criminal offences by setting the maximum penalties that may be included in the regulations. Subsection (9) sets out limits on the powers of entry which may be conferred by the regulations.
 166. Subsection (11) defines “enactment”, “mutilated”, “prescribed”, “relevant animal” “unlawfully imported” and other terms for the purposes of this clause.

Zoos

Clause 47: Zoos etc

167. Subsection (1) of this clause gives effect to Schedule 5, which sets out amendments to the 1981 Act.
168. 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.

Miscellaneous and general

Clause 48: Animal Welfare Act 2006: minor amendments

169. This clause makes minor changes to sections 31 and 51 of the 2006 Act. Section 31 of the 2006 Act (time limits for prosecutions) disapplies the six-month time limit for bringing prosecutions that would otherwise apply under the Magistrates’ Court Act 1980 and provides alternative time limits in which prosecutions for offences under that Act may be brought. Subsection (5) of section 51 (inspectors) limits the liability of inspectors in the exercise of their functions under the 2006 Act.
170. Subsection (2) amends section 31 of that Act so that it applies in relation to the prosecution of offences included in regulations made under that Act (as well as to offences set out in the 2006 Act). Subsection (3) amends section 51(5) to ensure that it applies in relation to functions of inspectors conferred by regulations made under that Act (as well as in relation to the functions conferred on inspectors by that Act).

Clause 49: Meaning of “appropriate national authority” and “enactment”

171. This clause defines “appropriate national authority” and “enactment” for the purpose of making regulations under this Part.

Part 4: General

Clause 50: Power to make consequential provision

172. Subsection (1) of this clause provides the Secretary of State with a regulation-making power to make provision consequential on any provisions in the Bill. Subsections (2) and (3) grant similar powers to the Scottish Ministers and Welsh Ministers in relation to their respective jurisdictions.
173. Subsection (5) provides that any such regulations may include provision amending,

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repealing or revoking primary legislation and retained direct EU legislation passed or made before the end of the parliamentary session in which this Bill is passed. Subsection (6) defines “primary legislation” for the purpose of this clause.

Clause 51: Concurrent functions in Wales

174. Part 3 of the Bill creates powers that are exercisable concurrently by the Secretary of State and the Welsh Ministers. Restrictions in Schedule 7B to the Government of Wales Act 2006 prevent the Senedd from removing a Minister of the Crown function that is exercised concurrently or jointly with the Welsh Ministers without the consent of the UK Government. This clause disapplies the relevant restrictions in respect of the concurrent powers in this Bill by adding the Animal Welfare (Kept Animals) Act 2022 to the lists of enactments in paragraphs 9(8)(b) and 11(6)(b) of Schedule 7B. This will allow the Senedd to alter the concurrent arrangements relating to devolved matters without needing the UK Government’s consent.

Clause 52: Regulations

175. This clause sets out the scope of provisions that may be included in regulations made under powers in the Bill and the procedures for making regulations in the UK Parliament and in the devolved legislatures (except for commencement regulations under clause 53 which are made without any formal procedure).

Clause 53: Commencement

176. Subsections (1) to (5) of this clause sets out when or how each provision in the Bill comes into force (see also paragraphs 216 to 218 below). Subsection (4) defines “appropriate national authority” for the purpose of commencing provisions in Part 3 of the Bill.

177. Subsection (6) to (11) 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 54: Extent

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

Clause 55: Short title

179. This clause provides that the short title of the Bill will be the Animal Welfare (Kept Animals) Act 2022 once it becomes an Act.

Schedules

Schedule 1: Primates: transitional provision relating to primates

Introductory

180. This Schedule sets out a transitional scheme for persons that already have primates on or before the prohibition in clause 1(1) comes into effect. Paragraph 1 provides that the prohibition does not apply where a primate is kept by a person immediately before a date specified in regulations and the primate is registered with a local authority in accordance with this Schedule. The specified date in the regulations must be a date which is on or before the date on which the prohibition comes into force.

181. Paragraph 2 establishes the “registration requirements” of the scheme, which includes the “welfare requirement” to ensure that the basic welfare needs of the primate are met during the registration period.

Applications for registration

182. Paragraphs 3 and 4 set out the application requirements in relation to the registration scheme. It includes a requirement for the inspection of the premises in which the primate is being kept by a veterinary surgeon for the purpose of determining whether the welfare requirement will be met. If the local authority is satisfied that the welfare requirement and other registration requirements will be met it must grant the application and register the primate and the applicant as the keeper of the primate. Subject to that, the local authority must refuse the application. Paragraph 4(4) refers to the applicant's rights to make representations and make an appeal under Schedule 3.

Inspections and fees

183. Paragraph 5 establishes the local authorities' powers to inspect the premises where a registered primate is being kept for the purpose of ensuring that the welfare requirement continues to be met during the registration period. Such inspections may be carried out at any reasonable hour.
184. Paragraph 6 enables the local authority to charge fees in respect to an application for registration or for any inspection carried out under this Schedule.

Enforcement of registration requirements

185. Paragraph 7 makes it an offence to fail to meet the registration requirements in relation to a registered primate. The registered keeper who fails to ensure that they are met is liable on summary conviction to a fine (see also Schedule 2).
186. Paragraph 8 enables a local authority to issue a "registration rectification notice" to the registered keeper if the keeper is not meeting the registration requirements with a view to directing the keeper to take steps that would ensure that those requirements will be met within a specified time period. This period may not be longer than a year or extend beyond the time that this Schedule ceases to have effect.

Transfer of primate

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

Death of a primate

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

Death of a registered keeper

189. Paragraph 11 sets out the process to be applied upon the death of a registered keeper.

Expiry

190. Paragraph 12 provides that this Schedule ceases to have effect at the end of a period of one year after the prohibition in clause 1(1) comes into force.

Schedule 2: Offences relating to primates: fixed penalty notices

Power to issue fixed penalty notices

191. This Schedule permits a local authority to issue fixed penalty notices for offences under Part 1 of the Bill.

Fixed penalty notices

192. Paragraph 2 defines a fixed penalty notice for the purposes of this Schedule and sets out the

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maximum penalty that may be imposed and the period during which the penalty must be paid (the “relevant period”), which is 28 days beginning with the date on which the notice is issued). Paragraph 3 sets out details that must be included in a notice.

Effect of a fixed penalty notice

193. Paragraph 4 provides that no proceedings may be instituted during the relevant period of the notice and the offender may not be convicted if the person pays the full amount owed before the end of the relevant period, or 50% of that amount with 14 days of the beginning of the relevant period

Use of proceeds

194. Paragraph 5 provides that sums received by local authorities in England must be paid into the Consolidated Fund and funds received by local authorities in Wales into the Welsh Consolidated Fund. Before making such payments, the local authority may deduct the costs of investigating the offence to which their fixed penalty notices relate and the costs of issuing notices.

Schedule 3: Decisions relating to primates: representations and appeals

Application of Schedule

195. Paragraph 1 of this Schedule sets out a person’s right to make representations and appeals in relation to decisions made by the local authority under Part 1 of the Bill, including a refusal to grant a primate licence, the imposition of a rectification notice and the revocation of a primate licence.

Representations

196. Paragraph 2 requires a local authority to inform a person of their right to make representations under this Schedule and paragraph 3 provides that a person may make written representations to the local authority within 28 days of the person being notified or informed of the refusal, revocation, etc.

Reconsideration

197. Paragraphs 4 to 7 set out the procedure to be followed by the relevant local authority where a person makes written representations under paragraph 3.

Appeals

198. Paragraph 8 provides that a person may appeal to the First-tier Tribunal in England or the magistrates’ court in Wales against a decision made by a local authority not to reconsider its decision. Paragraph 9 sets out the powers of the Tribunal or court on hearing an appeal.

Suspension of local authority decisions

199. Paragraph 10 confirms that any decision of a kind referred to in paragraph 1 is suspended during the period that a person may make a written representation under paragraph 3 or make an appeal under paragraph 8.

Schedule 4: Powers of entry relating to primates

Inspectors

200. Paragraph 1 defines “inspector” for the purposes of this Schedule.

Warrants

201. Paragraph 2 empowers an inspector to apply to a justice of the peace for a warrant to enter *These Explanatory Notes relate to the Animal Welfare (Kept Animals) Bill as introduced in the House of Commons on 11 May 2022 (Bill 2).*

premises if they have reasonable grounds for suspecting that an offence has been committed in relation to Part 1 of the Bill. Paragraph 3 sets out the circumstances in which a justice of the peace may issue a warrant under this Schedule

Entry to premises

202. Paragraphs 4 and 5 set out how an inspector must exercise a power of entry under a warrant. Paragraph 6 provides that an inspector may use reasonable force to enter premises and may bring two other persons and any necessary equipment and materials on to the premises.

Powers on entry

203. Paragraph 7 sets out what an inspector exercising a power of entry may do on the premises and includes powers to search the premises and seize anything found on the premises, except an animal. Paragraph 8 provides that a person accompanying an inspector under paragraph 6 may exercise any power under paragraph 7 if that person is in the company and under the supervision of the inspector.
204. Paragraph 9 outlines what must be done in relation to anything seized under paragraph 7. This paragraph also prevents the seizure of anything in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

Obstruction

205. Paragraph 10- makes it offence for a person to fail to comply with a requirement for assistance made under paragraph 7 or otherwise obstruct a person in the exercise of a function under this Schedule. A person who commits an offence is liable to a fine on summary conviction.

Liability

206. Paragraph 11 confirms that an inspector will not be liable in any civil or criminal proceedings for anything done in the purported performance of the inspector's functions under this Schedule if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it. This protection is also extended to any person accompanying the inspector under paragraph 6.

Schedule 5: Zoos

Introduction

207. This Schedule makes amendments to the 1981 Act.

Meaning of "zoo" for purposes of Act

208. Paragraph 2 amends the definition of "zoo" in the 1981 Act to remove the provision in section 1(2) of that Act which exempts wild animals exhibited in a circus in England from the requirement to be licensed under the 1981 Act. This exemption is no longer relevant as the Wild Animals in Circuses Act 2019 prohibits the use of wild animals in travelling circuses in England. .

Meaning of "local authority" for purposes of Act

209. 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

210. Paragraphs 4 to 14 amend the 1981 Act to extend the Secretary of State's power 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.

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211. Paragraph 9 amends section 9 of the 1981 Act to provide that standards specified by the Secretary of State 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 specified under section 9 of the 1981 Act.

Inspectors

212. 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).
213. 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

214. 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

215. Paragraph 18 amends the 1981 Act to increase those penalties in the Act currently set at level 3 on 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 fine (an unlimited fine in England and Wales, £5000 in Scotland).

Commencement

216. Clause 53 deals with commencement of provisions in the Bill.
217. Part 1 (primates) come into force in accordance with commencement regulations made by the Secretary of State in relation to England and the Welsh Ministers in relation to Wales.
218. Part 2 (dogs attacking or worrying livestock) and clauses 43 and 44 (taking of pets) come into force in accordance with commencement regulations made by the Secretary of State.
219. In Part 3:
- clauses 40 (prohibition of export of livestock for slaughter etc.) and 48 (Animal Welfare Act 2006: minor amendments) come into force in accordance with commencement regulations made by the appropriate national authority;
 - clauses 41 (power to make provision in connection with the enforcement of clause 40), 42 (powers to amend or revoke retained direct EU legislation), 46 (powers relating to importation of certain dogs, cats and ferrets) and 49 (meaning of "appropriate national authority" and "enactment") come into force two months following Royal Assent;
 - clause 45 (reduction in limit on non-commercial movement of dogs, cats and ferrets) comes into force six months after Royal Assent;
 - clause 47 and paragraphs 4 to 14 and 17 of Schedule 5 (Zoos) come into force in accordance with commencement regulations made by the appropriate national authority; and

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- subject to that, clause 47 and the remainder of Schedule 5 come into force two months after Royal Assent.
220. Part 4 (general) comes into force at Royal Assent, except for clause 51 (concurrent functions in Wales) which comes into force two months after Royal Assent.

Financial implications of the Bill

221. 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, regulatory costs will be recovered from service users (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

222. 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

223. 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 section 19(1)(a) of the Human Rights Act 1998 to this effect.
224. The government’s ECHR analysis can be found in the memorandum to the Joint Committee on Human Rights.

Statement under section 20 of the Environment Act 2021

225. The government considers that the Bill contains provisions in Schedule 5 (Zoos; conservation measures etc) which, if enacted, would be environmental law, but will not have the effect of reducing the level of environmental protection provided for by any existing environmental law. Accordingly, the Secretary of State has made a statement under section 20 of the Environment Act 2021 to this effect.

Related documents

226. 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](#)

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[the welfare of animals during transport](#), December 2020.

- Defra consultation: [Commercial and non-commercial movements of pets into Great Britain](#), August 2021
- [Pet Theft Taskforce Report](#), September 2021.
- Defra consultation: [Standards of Modern Zoo Practice for Great Britain](#), March 2022

Annex A - Territorial extent and application in the United Kingdom

Part 1 and Schedules 1 to 4 (primates) and 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) all extend and apply to Great Britain, except for clauses 43 and 44 (taking of pets) which extend to England only and clause 48 (Animal Welfare Act 2006: minor amendments) and paragraph 17 of Schedule 5 (zoos) which extend to England and Wales. The general provisions in Part 4 extend to England and Wales and Scotland, except clause 51 (concurrent functions in Wales) which has the same extent as the provisions to which the amendments to the Government of Wales Act 2006 in that clause relate.

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	England	Wales		Scotland		Northern Ireland	
	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Legislative Consent Motion process engaged?	Extends and applies to Scotland?	Legislative Consent Motion process engaged?	Extends and applies to Northern Ireland?	Legislative Consent Motion process engaged?
Clauses 1 to 24: Primates	Yes	Yes	Yes	No	N/A	No	N/A
Clauses 25 to 39: Dogs attacking or worrying livestock	Yes	Yes	No	No	N/A	No	N/A
Clauses 40 and 41: Export of livestock	Yes	Yes	Yes	Yes	Yes	No	N/A
Clause 42: Animal welfare and retained direct EU legislation	Yes	Yes	Yes	Yes	Yes	No	N/A
Clauses 43 and 44: Taking of pets	Yes	No	N/A	No	N/A	No	N/A
Clause 45 and 46: Importation of dogs, cats and ferrets	Yes	Yes	Yes	Yes	Yes	No	N/A

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Provision	England	Wales		Scotland		Northern Ireland	
	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Legislative Consent Motion process engaged?	Extends and applies to Scotland?	Legislative Consent Motion process engaged?	Extends and applies to Northern Ireland?	Legislative Consent Motion process engaged?
Clause 47: Zoos	Yes	Yes	Yes	Yes	Yes	No	N/A
Clause 48: Animal Welfare Act 2006: minor amendments	Yes	Yes	No	No	N/A	No	N/A
Clause 49: Meaning of "appropriate national authority" and "enactment"	Yes	Yes	Yes	Yes	Yes	No	N/A
Clause 50: Power to make consequential amendments	Yes	Yes	Yes	Yes	Yes	No	N/A
Clause 51: Concurrent functions in Wales	No	Yes	Yes	No	N/A	No	N/A
Clause 52 to 55: General	Yes	Yes	Yes	Yes	Yes	No	N/A
Schedules 1 to 4: Primates	Yes	Yes	Yes	No	N/A	No	N/A
Schedule 5: Zoos	Yes	Yes	Yes	Yes	Yes	No	N/A

Subject matter and legislative competence of devolved legislatures

In the opinion of Her Majesty's Government, the subject matters of Parts 3 and 4 (except clauses 43, 44, 48 and 51 which do not extend to Scotland), and Schedule 5 of the Bill are within the devolved legislative competence of the Scottish Parliament because they do not relate to reserved matters under Schedule 5 of the Scotland Act 1998.

Part 1, Part 3 (except clauses 43, 44 and 48) and Part 4 and Schedules 1 to 5 are also within the devolved legislative competence of Senedd Cymru because they do not relate to reserved matters under Schedule 7A of the Government of Wales Act 2006.

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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 11 May 2022 (Bill 2)

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