

## **SUPPLEMENTARY LEGISLATIVE CONSENT MEMORANDUM**

### **(MEMORANDUM NO.2)**

#### **ANIMAL WELFARE (KEPT ANIMALS) BILL**

1. This Supplementary Legislative Consent Memorandum (LCM) is laid under Standing Order (“SO”) 29.2. SO29 prescribes that a Legislative Consent Memorandum must be laid, and a Legislative Consent Motion may be tabled, before Senedd Cymru if a UK Parliamentary Bill makes provision in relation to Wales for any purpose within, or which modifies the legislative competence of the Senedd.
2. The Animal Welfare (Kept Animals) Bill (“the Bill”) was introduced by George Eustice MP in the House of Commons and given its First Reading on 8 June 2021. On 10 November 85 amendments (83 UK Government amendments and 2 non-government amendments) were tabled for consideration at Commons Committee stage. The UK Government amendments were agreed on 16 and 18 November and a number of these make provision falling within the legislative competence of the Senedd. The 25 November print of the Bill includes the amendments and can be found at: <https://bills.parliament.uk/bills/2880>.
3. It was not possible to lay this LCM within the normal two weeks prescribed in SO29, owing to the volume and complexity of the amendments tabled.

#### **Policy Objectives**

4. The stated policy objective for the Bill is to make provisions to deliver a number of reforms relating to the welfare of kept animals including farm animals, companion animals and kept wild animals.

#### **Contents of the Bill**

5. The Bill is sponsored by the Department for Environment, Food and Rural Affairs.
6. The Bill (as updated) now makes provision in the following areas:
  - Part 1 and Schedules 1 – 4: Primates;
  - Part 2 - Dogs attacking or worrying livestock;
  - Part 3 - Other provisions about kept animals:
    - a. Clauses 40 and 41 - Exports of live animals: Prohibition of export for slaughter etc.;
    - b. Clause 42 – Animal welfare and retained direct EU legislation: Power to amend or revoked retained direct EU legislation (regulations to promote animal welfare);
    - c. Clauses 43 and 44 – Taking of pets: Taking a dog without lawful authority etc (applies to England only);
    - d. Clause 45 and 46 – Importation of dogs, cats and ferrets: Reduction in the limit of non-commercial movement of pets etc.;
    - e. Clause 47 ( and Schedule 5) – Zoos;

- f. Clause 48 and 49 – Miscellaneous and General: Animal Welfare Act 2006: minor amendments, and; Meaning of “appropriate national authority” and “enactment”.

Part 4: General.

7. As set out above the Bill includes provisions to deliver a number of reforms relating to the welfare of kept animals, including farm animals, companion animals, and kept wild animals.
8. 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.
9. The Bill repeals and replaces the Dogs (Protection of Livestock) Act 1953 in respect of England and Wales with a new set of provisions to address the issue of dogs attacking or worrying livestock. The Bill broadens the definition of livestock which are afforded protection and the areas in which the powers apply. It also incorporates a range of ancillary orders that the Courts may make to provide effective tools to address reoffending in the most serious cases of livestock worrying.
10. 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.
11. 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.
12. The Bill 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 NAFW<sup>1</sup> Standards of Modern Zoo Practice and also amends the 1981 Act to enable the Welsh Ministers 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.

**Changes to the Bill since the publication of the first Legislative Consent Memorandum which required Senedd consent**

13. The amendments to the Bill requiring Senedd consent are described below.

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<sup>1</sup> National Assembly for Wales. The function of specifying standards of modern zoo practice are now functions of the Welsh Ministers on the basis of the following; The functions of the Ministers under section 9 (power to specify standards of modern zoo practice) of the Zoo Licensing Act 1981 so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). Those functions were then further transferred to the Welsh Ministers by section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).

## **Part 1: Primates**

14. It is the Welsh Government's view that consent is required for the amendments to provisions in Part 1 of the Bill, namely, the amendments to clauses 1- 5, 7, 8, 17, 20-25 and 38, as detailed below, on the basis that they make provision with regard to the devolved matter of animal welfare insofar as they apply to Wales:

### **Clause 1: Prohibition on keeping primates without a licence**

**Amendment 3** applies Part 1 of the Bill to Wales. There follow a number of other amendments in the name of the Minister which enable Part 1 to operate in relation to Wales. Functions under Part 1 that in England are conferred on the Secretary of State will, in Wales, be conferred on the Welsh Ministers.

### **Clause 2: Primate licences**

**Amendment 4** sets out that a primate licence, including one issued in Wales, must specify the premises to which it relates.

### **Clause 3: Licensing standards and other requirements**

**Amendments 5, 6, 7 and 8** replace references to "Secretary of State" with reference to "appropriate national authority", to encompass the Welsh Ministers.

### **Clause 4: Applications**

**Amendment 9** is consequential on amendment 3.

### **Clause 5: Determination of applications**

**Amendment 10** allows a Local Authority, including in Wales, to take previous breaches of the licensing standards, and other relevant conduct, into account when making determinations under clause 5(2) and (3).

### **Clause 7: Variation and surrender**

**Amendment 11** clarifies that a Local Authority, including in Wales, can only vary the premises to which a licence relates if the new premises are in its area.

**Amendment 12** has the effect that a Local Authority, including in Wales, is not required to grant an application to reduce the number of primates to which a licence applies.

**Amendment 13** requires a Local Authority, including in Wales, where an application is made to vary the premises to which a licence relates, to inspect the new premises before determining the application.

## **Clause 8: Renewal**

**Amendment 14** allows a Local Authority, including in Wales, to take previous breaches of the licensing standards, and other relevant conduct, into account when making determinations under clause 8(5) and (6).

## **Clause 17: Selling primates to unlicensed persons**

**Amendment 15** is consequential on amendment 3.

## **Clause 20: Guidance**

**Amendment 16** replaces a reference to “Secretary of State” with a reference to “appropriate national authority”, which includes the Welsh Ministers.

**Amendment 17** requires guidance given by the Welsh Ministers to be laid before Senedd Cymru.

**Amendment 18** requires the appropriate national authority, which includes the Welsh Ministers, to publish guidance given under this clause.

**Amendment 19** specifies that Local Authorities must have regard to guidance given by the appropriate national authority, which includes the Welsh Ministers.

## **Clause 21: Information**

**Amendments 20 to 24** replace references to “Secretary of State” with references to “appropriate national authority”, which includes the Welsh Ministers.

## **Clause 22: Power to extend Part 1**

**Amendments 25, 27 and 28** replace references to “Secretary of State” with references to “appropriate national authority”, which includes the Welsh Ministers.

**Amendment 26** is consequential on the new clause about regulations.

## **Clause 23: Regulations under Part 1**

**Amendment 29** removes provision about regulations under Part 1 with a view to provision about regulations appearing in a new clause.

## **Clause 24: Meaning of “keep”**

**Amendment 30** is consequential on amendment 3.

## **Clause 25: General interpretation**

**Amendment 31** defines “appropriate national authority” in relation to Wales as the Welsh Ministers.

**Amendment 32** limits the existing definition of “local authority” to England, in consequence of the application of Part 1 to Wales by amendment 3.

**Amendment 33** is consequential on amendment 32.

**Amendment 34** provides for a definition of “local authority” for Wales.

**Amendment 35** provides that where premises are partly in one local authority’s area and partly in another one’s, they are treated as being in the area of the local authority where the major part of the premises is situated, including in Wales.

## **Clause 38: Regulations under Part 2**

**Amendment 36** removes provision about regulations under Part 2 with a view to provision about regulations appearing in a new clause.

## **Part 2: Dogs Attacking and Worrying Livestock**

15. It is the Welsh Government’s view that consent is required for the amendments to provisions in Part 2 of the Bill, namely, the amendments to clause 40, as detailed below as they make provision with regard to the devolved matters of animal welfare and agriculture insofar as they apply to Wales:

### **Clause 40: General Interpretation**

**Amendments 37 and 42** make drafting changes relating to the definition of “enclosed deer”

**Amendments 38 and 41** provide that paragraph (g) of the definition of “livestock” covers only wild boar that are enclosed.

**Amendment 39** simplifies paragraph (a) of the definition of “livestock”, and ensures that it includes steers.

**Amendment 40** simplifies paragraph (b) of the definition of “livestock”.

## **Part 3 – Other Provisions about Kept Animals**

16. It is the Welsh Government’s view that consent is required for amendments to provisions in Part 3 of the Bill, as detailed below, on the basis that they make provision with regard to the devolved matters of animal welfare and agriculture insofar as they apply to Wales:

## **Export of Livestock**

### **Clause 42: Prohibition of export of livestock for slaughter etc**

**Amendment 44** simplifies paragraph (a) of the definition of “relevant livestock”, and ensures that it includes steers.

**Amendment 45** simplifies paragraph (b) of the definition of “relevant livestock”.

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

## **Animal Welfare and retained direct EU legislation**

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

**Amendment 47** enables regulations under section 12(1) of the Animal Welfare Act 2006 to amend or revoke instruments made under section 2(2) of the European Communities Act 1972 (implementation of EU obligations etc).

**Amendment 48** enables regulations under section 13 of the Animal Welfare Act 2006 to make consequential amendments or revocations of retained direct EU legislation and instruments made under section 2(2) of the European Communities Act 1972.

## **Importation of dogs, cats and ferrets**

### **Clause 45: Reduction in limit on non-commercial movement of dogs, cats and ferrets**

**Amendment 51** makes consequential amendments in relation to relevant Welsh regulations.

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

**Amendment 52** provides that regulations under clause 46(1) may contain exemptions, including exemptions applying where a permit is held, and may make provision about permits (including applications for permits, the determination of applications and fees).

## **Part 4 – General**

17. It is the Welsh Government’s view that consent is required for amendments to provisions in Part 4 of the Bill as detailed below on the basis they make provision with regard to the devolved matters of animal welfare and agriculture insofar as they apply to Wales:

**Amendment 54** amends the definition of “appropriate national authority” to provide that the Welsh Ministers’ powers are limited by reference to devolved legislative competence.

**Amendment 55** removes provision about regulations under Part 3 with a view to provision about regulations appearing in a new clause

**Amendment 56** removes provision about regulations under this clause with a view to provision about regulations being made by a new clause.

**Amendment 57** provides that the Welsh Ministers may by regulations make provision that is consequential on any provision of Part 1 or 3 as it applies in relation to Wales, if it is within devolved legislative competence.

**Amendment 58** removes provision about regulations under this clause with a view to provision about regulations being made by a new clause.

**Amendment 59** confers on the Welsh Ministers the power to commence Part 1 in relation to Wales.

**Amendment 60** is consequential on amendment 59.

**Amendment 61** is consequential on amendment 55.

**Amendment 62** provides for the new clause containing minor amendments of the Animal Welfare Act 2006 to be commenced by regulations.

**Amendment 65** is consequential on amendment 67.

**Amendment 67** confers powers to make transitional or saving provision on the Welsh Ministers.

**Amendment 68** provides for the new clause containing minor amendments of the Animal Welfare Act 2006 to extend to England and Wales only.

## **Schedules**

### **Schedule 1 – TRANSITIONAL PROVISION RELATING TO PRIMATES**

18. It is the Welsh Government’s view that consent is required for the amendments to provisions in Schedules 1, 2 and 3 (relating to Part 1 of the Bill) as detailed below on the basis that they make provision with regard to the devolved matter of animal welfare insofar as they apply to Wales.

**Amendment 71** provides that regulations under paragraph 1(1)(a) of Schedule 1 are to be made by the appropriate national authority, which includes the Welsh Ministers.

**Amendment 72** replaces a reference to “Secretary of State” with a reference to “appropriate national authority”, which includes the Welsh Ministers.

**Amendment 73** provides that an application for registration, including in Wales, under the Schedule may be made if the application condition (see amendment 76) is met.

**Amendment 74** provides that regulations under paragraph 3(1) of Schedule 1 are to be made by the appropriate national authority.

**Amendment 75** provides that applications under this Schedule are to be made to the local authority in whose area the primate is kept.

**Amendment 76** sets out the condition that must be satisfied for an application under paragraph 3(1) of the Schedule to be made.

## **Schedule 2 – OFFENCES RELATING TO PRIMATES: FIXED PENALTY NOTICES**

**Amendments 77 and 78** provide for sums received by local authorities in Wales under Schedule 2 to be paid into the Welsh Consolidated Fund, subject to deduction of investigation costs.

## **Schedule 3 – DECISIONS RELATING TO PRIMATES: REPRESENTATIONS AND APPEALS**

**Amendments 79 to 81** secure that appeals under Schedule 3 in Wales are made to a magistrates' court.

## **Movement of Clauses**

**Amendment NC1** amends the Animal Welfare Act 2006 so that section 31 (time limits for prosecutions) applies to offences under regulations under that Act (as well as to offences under that Act) and section 51 (inspectors) applies in relation to provisions of regulations under that Act (as well as in relation to provisions of that Act).

**Amendment NC3** introduces a new provision for regulations. It provides that a power to make regulations under the Bill also includes a power to make different provision for different purposes, different provision for different areas, consequential, incidental, supplementary, transitional, transitory or saving provision. Under this clause, where the Welsh Ministers have a power to make regulations under the Act, they are able to exercise the above powers. The amendment also sets out the procedure for making regulations and specify that, any regulations made under clause 3(1) or 3(3), (Licensing standards and other requirements) 22 (power to extend Part 1), Part 3 (Other provisions about Kept Animals) or clause 50 (power to make consequential provision) that amend, repeal or revoke provision made by primary legislation or retained EU legislation is subject to the Affirmative procedure of Senedd Cymru. All other regulations under the Bill are made by the negative procedure.

**Amendment 82** inserts “; and for connected purposes.” into the long title.



## Concurrent powers

19. Clauses 43 and 46 provide the “appropriate national authority” with regulation making powers in relation to other kept animals. Clause 43 sets out that regulations may be made which relate to the enforcement of clause 42 (the prohibition of export of livestock for slaughter). Regulations under this clause may, amongst other things, include any provision considered appropriate for, or in connection with preventing, detecting, investigation or punishing contraventions of clause 42.
20. Clause 46 provides the ‘appropriate national authority’ with a power to make regulations which relate to the importation of relevant animals (defined as dog, cat or ferret) into Great Britain for the purpose of promoting the welfare of those animals. Regulations made under this clause may, for example, prohibit or restrict the importation of a relevant animal which is below a specified age, has been mutilated or is more than a specified number of days pregnant.
21. The amendments to clause 48 confer concurrent functions on the Welsh Ministers in relation to legislative functions under Part 3 (i.e. clauses 43 and 46) and provide that devolved authorities’ powers are limited by reference to devolved legislative competence.
22. “Appropriate national authority” is defined in clause 48 as, in relation to Wales, the Welsh Ministers or the Secretary of State acting with the consent of the Welsh Ministers.
23. Consequently, any regulations made under clauses 43 and 46 would need to be within the legislative competence of the Senedd (which is already the case). The Secretary of State may make regulations with the consent of the Welsh Ministers, providing those regulations are within the devolved competence of the Welsh Ministers.
24. Clause 51 of the Bill amends Schedule 7B to the Government of Wales Act 2006 so as to dis-apply certain restrictions in that Schedule in relation to functions conferred by or under the Bill. This provision sets out the ‘carve out’ which removes the requirement for Minister of the Crown consent for a Senedd Act provision which modifies or removes the Welsh Ministers’ function of providing consent to the Secretary of State exercising powers under clause 48 (Clause 51 makes provision in relation to matters which are reserved by virtue of (Paragraph 7 of Schedule 7B to GOWA).
25. Welsh Government would ordinarily not wish to see the creation of new concurrent functions. The nature of Clause 43 (Export of livestock) and Clause 46 (Importation of dogs, cats and ferrets) is such that a Great Britain-wide approach is likely to be considered appropriate for reasons of consistency and practicality to ensure a uniformed approach to export and import controls at borders. Having an approach that differs for Wales, or any other part of GB, would potentially cause difficulties for animal owners/keepers and enforcement agencies.

## **Welsh Government position on the Bill as amended**

26. The Welsh Government supports the amendments covered by this LCM, because they extend provisions to Wales, including powers for the Welsh Ministers, which will support the Programme for Government commitments embedded in our five year Animal Welfare Plan for Wales, offering the coherence in terms of enforcement and other matters across England and Wales which is essential given the cross-border nature of this policy area.
27. At this stage, however, we are reserving our position on whether the Senedd should ultimately consent to the Bill as a whole, as we are still pursuing:
- a. powers for the Welsh Ministers in relation to Part 2 (Dogs Attacking or Worrying Livestock), though the UK Government maintains that this part of the Bill is entirely reserved
  - b. the inclusion of Wales in the new clause on pet thefts.

## **Financial implications**

28. The provisions 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) to the Bill (impact assessments were undertaken on an England only/GB wide/England and Wales basis where necessary (largely on a GB basis) in relation to the contents of the Bill), which also covers the impacts on business.
29. 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).

## **Conclusion**

30. Subject to the final outcome of negotiations with the UK Government, the Welsh Government considers it appropriate to use this UK Bill as a vehicle to progress important and high profile animal welfare issues on largely a GB wide basis, particularly where these aims will benefit from a joined up approach with other governments on enforcement.
31. The Bill will also provide clarity the Courts and the public and it is a timely opportunity to take these important policy and legislative changes forward.

**Lesley Griffiths**

**Minister for Rural Affairs and North Wales, and Trefnydd**

**10 December 2021**

## **Annex: Amendments requiring the consent of the Senedd**

### **Part 1: Primates**

#### **Clause 1: Prohibition on keeping primates without a licence**

**Amendment 3:** Clause 1, page 1, line 7, leave out “anywhere in England”

#### **Clause 2: Primate licences**

**Amendment 4:** Clause 2, page 2, line 6, after “species” insert “at such premises”

#### **Clause 3: Licensing standards and other requirements**

**Amendment 5:** Clause 3, page 2, line 11, leave out “Secretary of State” and insert “appropriate national authority”

**Amendment 6:** Clause 3, page 2, line 22, leave out “Secretary of State” and insert “appropriate national authority”

**Amendment 7:** Clause 3, page 2, line 28, leave out “Secretary of State” and insert “appropriate national authority”

**Amendment 8:** Clause 3, page 2, line 29, leave out “Secretary of State” and insert “appropriate national authority”

#### **Clause 4: Applications**

**Amendment 9:** Clause 4, page 2, line 32, leave out “in England”

#### **Clause 5: Determination of applications**

**Amendment 10:** Clause 5, page 4, line 1, at end insert— “(4A) For the purposes of subsections (2) and (3) a local authority may take into account—  
(a) any previous failure by the applicant to meet the licensing standards, and  
(b) any other conduct of the applicant that is relevant

#### **Clause 7: Variation and surrender**

**Amendment 11:** Clause 7, page 4, line 26, at end insert “to other premises in the area of the same local authority”

**Amendment 12:** Clause 7, page 4, line 29, leave out “reduce the number of primates or”

**Amendment 13:** Clause 7, page 4, leave out lines 34 to 37 and insert— “(a) may request further information from the licence-holder; (b) in the case of an application under subsection (1)(a) or (b), may arrange for the premises specified in the licence to be inspected by a veterinary surgeon; (c) in the

case of an application under subsection (1)(c), must arrange for the proposed new premises to be so inspected.”

### **Clause 8: Renewal**

**Amendment 14:** Clause 8, page 5, line 24, at end insert— “(7A) For the purposes of subsections (5) and (6) a local authority may take into account—  
(a) any previous failure by the applicant to meet the licensing standards, and  
(b) any other conduct of the applicant that is relevant.”

### **Clause 17: Selling primates to unlicensed persons**

**Amendment 15:** Clause 17, page 10, line 6, leave out “in England”

### **Clause 20: Guidance**

**Amendment 16:** Clause 20, page 11, line 3, leave out “Secretary of State” and insert “appropriate national authority”

**Amendment 17:** Clause 20, page 11, line 12, leave out “Parliament after it is made” and insert “— “(a) Parliament, in the case of guidance given by the Secretary of State, or (b) Senedd Cymru, in the case of guidance given by the Welsh Ministers.”

**Amendment 18:** Clause 20, page 11, line 12, at end insert— “(3A) The appropriate national authority must publish any guidance given under this section.”

**Amendment 19:** Clause 20, page 11, line 13, leave out from “must” to end of line 14 and insert “, in the exercise of their functions under this Part, have regard to guidance given by the appropriate national authority.”

### **Clause 21: Information**

**Amendment 20:** Clause 21, page 11, line 16, leave out “Secretary of State” and insert “appropriate national authority”

**Amendment 21:** Clause 21, page 11, line 17, leave out “Secretary of State” and insert “appropriate national authority”

**Amendment 22:** Clause 21, page 11, line 24, leave out “Secretary of State” and insert “appropriate national authority”

**Amendment 23:** Clause 21, page 11, line 26, leave out “Secretary of State” and insert “appropriate national authority”

**Amendment 24:** Clause 21, page 11, line 27, leave out “Secretary of State” and insert “appropriate national authority”

## **Clause 22: Power to extend Part 1**

**Amendment 25:** Clause 22, page 11, line 31, leave out “Secretary of State” and insert “appropriate national authority”

**Amendment 26:** Clause 22, page 12, line 1, leave out from beginning to second “provision” in line 2 and insert “The consequential, supplementary, or incidental provision that may be made under this section includes”

**Amendment 27:** Clause 22, page 12, line 4, leave out “Secretary of State” and insert “appropriate national authority”

**Amendment 28:** Clause 22, page 12, line 5, leave out “Secretary of State” and insert “appropriate national authority”

## **Clause 23: Regulations under Part 1**

**Amendment 29:** Page 12, line 8, leave out Clause 23

## **Clause 24: Meaning of “keep”**

**Amendment 30:** Clause 24, page 12, line 28, after “England” insert “and Wales”

## **Clause 25: General interpretation**

**Amendment 31:** Clause 25, page 12, line 31, at end insert— ““appropriate national authority” means— (a) in relation to England, the Secretary of State, and (b) in relation to Wales, the Welsh Ministers;”

**Amendment 32:** Clause 25, page 13, line 1, after “authority” insert “, in relation to England,”

**Amendment 33:** Clause 25, page 13, line 3, after “council” insert “in England”

**Amendment 34:** Clause 25, page 13, line 7, at end insert— ““local authority”, in relation to Wales, means a county council or county borough council in Wales;”

**Amendment 35:** Clause 25, page 13, line 21, at end insert— “(2) Where any premises are partly in the area of one local authority and partly in the area of another local authority, the premises are treated for the purposes of this Part as being in the area of the local authority in which the major part of the premises is situated.”

## **Clause 38: Regulations under Part 2**

**Amendment 36:** Page 22, line 23, leave out Clause 38

## **Part 2: Dogs Attacking and Worrying Livestock**

### **Clause 40: General Interpretation**

**Amendment 37:** Clause 40, page 23, line 32, at end insert— ““enclosed deer” means any deer so long as they are being kept for business purposes on land enclosed by a barrier intended to prevent their escape;”

**Amendment 38:** Clause 40, page 23, line 37, at end insert— ““enclosed wild boar” means any wild boar so long as they are being kept on land enclosed by a barrier intended to prevent their escape;”

**Amendment 39:** Clause 40, page 23, line 39, leave out paragraph (a) and insert— “(a) cattle and other bovine animals,”

**Amendment 40:** Clause 40, page 23, line 40, leave out from “horses” to end of line and insert “and other equine animals”

**Amendment 41:** Clause 40, page 24, line 5, after “or” insert “enclosed”

**Amendment 42:** Clause 40, page 24, line 8, leave out paragraph (j) and insert— “(j) enclosed deer;”

## **Part 3 – Other Provisions about Kept Animals**

### **Export of Livestock**

#### **Clause 42: Prohibition of export of livestock for slaughter etc**

**Amendment 44:** Clause 42, page 25, line 13, leave out paragraph (a) and insert— “(a) cattle and other bovine animals,”

**Amendment 45:** Clause 42, page 25, line 14, leave out from “horses” to end of line and insert “and other equine animals,”

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

### **Animal Welfare and retained direct EU legislation**

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

**Amendment 47:** Clause 44, page 27, line 15, at end insert— “(b) any instrument containing provision made under section 2(2) of the European Communities Act 1972.””

**Amendment 48:** Clause 44, page 27, line 15, at end insert— “(1A) In Schedule 1 to that Act (regulations under section 13), in paragraph 19 after subparagraph (1) insert— “(1A) In the case of consequential provision, the power under sub-paragraph (1) includes power to amend or revoke— (a) any

retained direct EU legislation; (b) any instrument containing provision made under section 2(2) of the European Communities Act 1972.”

## **Importation of dogs, cats and ferrets**

### **Clause 45: Reduction in limit on non-commercial movement of dogs, cats and ferrets**

**Amendment 51:** Clause 45, page 28, line 16 at end insert-

“(9) In regulation 3(1)(b) of the Trade in Animals and Related Products (Wales) Regulations (S.I. 2011/2379 (W. 252))—

(a) in the English language text—

(i) at the end of sub-paragraph (i) for “or” substitute “and”;

(ii) for sub-paragraph (ii) substitute—“(ii) Article 5(4) of the Pets Regulation does not apply.”;

(b) in the Welsh language text—

(i) at the end of sub-paragraph (i) for “neu” substitute “a”;

(ii) for sub-paragraph (ii) substitute—“(ii) Nid yw Erthygl 5(4) o’r Rheoliad Anifeiliaid Anwes yn gymwys.”

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

**Amendment 52:** Clause 46, page 28, line 25 at end insert-

“(2A) The regulations may—

(a) provide that a prohibition or restriction is subject to specified exemptions, including an exemption in cases where a permit issued under the regulations is in force,

(b) make provision for and in connection with applications for permits and the determination of such applications, and

(c) require a specified fee to be paid on the making of such an application.”

## **Part 4 – General**

**Amendment 54:** Clause 48, page 31, line 6, leave out from “authority” to end of line 15 and insert

“, in relation to a power to make provision, means—

(a) the Secretary of State;

(b) the Scottish Ministers, so far as the provision would be within the legislative competence of the Scottish Parliament if contained in an Act of that Parliament;

(c) the Welsh Ministers, so far as the provision would be within the legislative competence of Senedd Cymru if contained in an Act of the Senedd.

(2A) But the Secretary of State may make regulations under section 43 or 46 only with—

- (a) the consent of the Scottish Ministers, if the regulations contain provision that could be made under that section by the Scottish Ministers;
- (b) the consent of the Welsh Ministers, if the regulations contain provision that could be made under that section by the Welsh Ministers.”

**Amendment 55:** Clause 48, page 31, line 21 leave out Clause 49.

**Amendment 56:** Clause 50, page 32, line 8, leave out “made by statutory instrument”.

**Amendment 57:** Clause 50, page 2, line 9, at end insert—

“(1A) The Scottish Ministers may by regulations make provision that is consequential on any provision of Part 3 as it extends to Scotland.

(1B) The Welsh Ministers may by regulations make provision that is consequential on any provision of Part 1 or 3 as it applies in relation to Wales.

(1C) But—

- (a) provision may be made under subsection (1A) only if it would be within the legislative competence of the Scottish Parliament if contained in an Act of that Parliament;
- (b) (b) provision may be made under subsection (1B) only if it would be within the legislative competence of Senedd Cymru if contained in an Act of the Senedd.”

**Amendment 58:** Clause 50, page 32, leave out lines 14 to 24.

**Amendment 59:** Clause 51, page 32, line 29, at end insert—

“(A1) Part 1 comes into force—

- (a) in relation to England, on such day as the Secretary of State may by regulations appoint;
- (b) in relation to Wales, on such day as the Welsh Ministers may by regulations appoint.

**Amendment 60:** Clause 51, page 32, line 30, leave out “Parts 1 and 2 come” and insert “Part 2 comes”.

**Amendment 61:** Clause 51, page 32, line 35, leave out “, 48 and 49” and insert “and 48”.

**Amendment 62:** Clause 51, page 32, line 36, at end insert— “( ) section (Animal Welfare Act 2006: minor amendments) comes into force on such day as the appropriate national authority may by regulations appoint;”



**Amendment 65:** Clause 51, page 33, line 16, leave out from first “Ministers” to “may” in line 17.

**Amendment 67:** Clause 51, page 33, line 18, at end insert—

“(6A) The Welsh Ministers may by regulations make transitional or saving provision in connection with the coming into force of any provision of Part 1 or 3 in relation to Wales.”

**Amendment 68:** Clause 52, page 33, line 32, at end insert—

“( ) section (Animal Welfare Act 2006: minor amendments) extends to England and Wales only;”

## **Schedules**

### **Schedule 1 – TRANSITIONAL PROVISION RELATING TO PRIMATES**

**Amendment 71:** Schedule 1, page 34, line 7, after “regulations” and insert “made by the appropriate national authority”

**Amendment 72:** Schedule 1, page 34, line 19, leave out “Secretary of State” and insert “appropriate national authority”

**Amendment 73:** Schedule 1, page 34, line 23, leave out from “who” to “may” in line 24 and insert “meets the application condition in relation to a primate”

**Amendment 74:** Schedule 1, page 34, line 25, after “regulations” insert “made by the appropriate national authority”

**Amendment 75:** Schedule 1, page 34, line 26, after “premises” insert “in which the primate is kept”

**Amendment 76:** Schedule 1, page 34, line 26, at end insert—

“(1A) “The application condition”, in relation to a primate, means—  
(a) in the case of an application to a local authority in England, that the individual kept the primate in premises in England or Wales immediately before the date specified under paragraph 1(1)(a) in regulations made by the Secretary of State;  
(b) in the case of an application to a local authority in Wales, that the individual kept the primate in premises in England or Wales immediately before the date specified under paragraph 1(1)(a) in regulations made by the Welsh Ministers.”

### **Schedule 2 – OFFENCES RELATING TO PRIMATES: FIXED PENALTY NOTICES**

**Amendment 77:** Schedule 2, page 38, line 30, at end insert “in the case of local authorities in England, or the Welsh Consolidated Fund in the case of local authorities in Wales.”

**Amendment 78:** Schedule 2, page 38, line 31, after “Fund” insert “or Welsh Consolidated Fund”

### **Schedule 3 – DECISIONS RELATING TO PRIMATES: REPRESENTATIONS AND APPEALS**

**Amendment 79:** Schedule 3, page 39, line 32, leave out “First-tier Tribunal” and insert “appropriate tribunal or court”

**Amendment 80:** Schedule 3, page 39, line 34, at end insert—

“(2) In this paragraph and paragraph 9, “appropriate tribunal or court” means—

- (a) in relation to an appeal relating to the decision of a local authority in England, the First-tier Tribunal;
- (b) in relation to an appeal relating to the decision of a local authority in Wales, a magistrates’ court.”

**Amendment 81:** Schedule 3, page 39, line 35, leave out “First-tier Tribunal” and insert “appropriate tribunal or court”

### **Movement of Clauses**

**Amendment NC1:** To move the following clause -

#### **“Animal Welfare Act 2006: minor amendments**

- (1) The Animal Welfare Act 2006 is amended as follows.
- (2) In section 31(1) (time limits for prosecutions) after “under” insert “or by virtue of”.
- (3) In section 51 (inspectors)—
  - (a) in subsection (5) after “under” insert “or by virtue of”;
  - (b) after subsection (6) insert—
- “(7) In this section, a reference to the purposes of this Act includes the purposes of provision made under the Act.””

#### **Amendment NC3:**

##### **“Regulations**

- (1) This section applies to regulations under any provision of this Act except section 51.
- (2) A power to make regulations includes power to make—
  - (a) different provision for different purposes;
  - (b) different provision for different areas;
  - (c) consequential, incidental, supplementary, transitional, transitory or saving provision.
- (3) Regulations made by the Secretary of State or the Welsh Ministers are to be made by statutory instrument.

(4) For regulations made by the Scottish Ministers, see section 27 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10) (Scottish statutory instruments).

(5) The Secretary of State may not make a statutory instrument containing (whether alone or with other provision)—

- (a) regulations under section 3(1) or (3)(b),
- (b) regulations under section 22,
- (c) regulations under Part 2,
- (d) regulations under Part 3 other than regulations made by virtue of section 46(2A)(c) (power to prescribe fee for making application), or
- (e) regulations under section 50 that amend, repeal or revoke provision made by primary legislation or retained direct principal EU legislation, unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament

(6) Any other statutory instrument made by the Secretary of State containing regulations is subject to annulment in pursuance of a resolution of either House of Parliament.

(7) The following regulations made by the Scottish Ministers are subject to the affirmative procedure (see section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010)—

- (a) regulations under Part 3 other than regulations made by virtue of section 46(2A)(c);
- (b) regulations under section 50 that amend, repeal or revoke provision made by primary legislation or retained direct principal EU legislation.

(8) Any other regulations made by the Scottish Ministers are subject to the negative procedure (see section 28 of that Act). (9) The Welsh Ministers may not make a statutory instrument containing (whether alone or with other provision)—

- (a) regulations under section 3(1) or (3)(b),
- (b) regulations under section 22,
- (c) regulations under Part 3 other than regulations made by virtue of section 46(2A)
- (c), or
- (d) regulations under section 50 that amend, repeal or revoke provision made by primary legislation or retained direct principal EU legislation, unless a draft of the instrument has been laid before, and approved by a resolution of, Senedd Cymru.

(10) Any other statutory instrument made by the Welsh Ministers containing regulations is subject to annulment in pursuance of a resolution of Senedd Cymru.

(11) In this section “primary legislation” has the meaning given by section 50.”

**Amendment 82:** Title at end insert “; and for connected purposes.”