



ANIMAL WELFARE BILL 2021 EXPLANATORY NOTES

These notes are circulated for the information of Members with the approval of the Member in charge of the Bill, Hon. Geoffrey Boot MHK.

INTRODUCTION

1. These explanatory notes relate to the Animal Welfare Bill 2021. They have been prepared by the Department of Environment, Food and Agriculture (the Department) in order to assist readers of the Bill. They do not form part of the Bill and have not been endorsed by the House of Keys.
2. The notes need to be read in conjunction with the Bill. They are not meant to be a comprehensive description of the Bill.
3. The Bill has been subject to a public consultation that ran from 8th March 2021 to 5th April 2021. While this consultation period was shorter than the typical 6 to 8 week consultation period that is normally provided for a Bill, the Department was of the view that a shorter consultation period was appropriate given –
 - a. the limited time available in the current Parliamentary session for consideration of the Bill;
 - b. the likely public support for the introduction of such a Bill; and
 - c. that any significant concerns would be quickly identified given the Bill's short length.
4. The Bill has been revised to take account of the feedback submitted as a consequence of this public consultation. Notable changes made as a consequence of the public consultation were –
 - a. the removal, for further consideration, of provisions relating to the proposed classification of mountain hares as game and the consequential amendments required to the Forestry Act 1984, the Game (Hares) Act 1971 and the Game Acts 1882 to 1958.
 - b. the amendment of clause 5 of the Bill to allow for a contravention of regulations made as a consequence of clause 5 of the Bill to be punishable, upon summary conviction, to a penalty of 2 years' custody. This would be as an alternative to, or in addition to, the imposition of a fine for a contravention of the regulations.
5. An Impact Assessment of the Bill has been prepared.

SUMMARY AND BACKGROUND

6. Animals play a special and important role in many of our daily lives and should be afforded appropriate protections from harm and mistreatment.
7. Legislation exists in the Island to protect the welfare of livestock¹, to criminalise cruelty to animals and to ensure their protection during scientific procedures². However, there is little up to date legislative provision relating to the welfare of companion animals (e.g. dog, cats, horses, etc.).
8. The proposed Bill has been drafted to address this legislative deficit, having had regard to the recommendations made by a Tynwald Select Committee³ and the subsequent report from the Department's Animal Welfare Forum in 2017.
9. While the Bill does not fulfil all of the policy requirements identified as a consequence of these reports, the Bill will enable the application to the Island of key protections for companion animals, which are already provided in neighbouring jurisdictions, and provide the vires needed to enforce these protections.
10. This will include, for example, the ability to apply legislation such as the Animal Welfare Act 2006 (of Parliament). This legislation is regularly amended, such as by the Animal Welfare (Service Animals) Act 2019 (of Parliament), commonly referred to as "Finn's Law" which provides additional legal protection for Police and other services' dogs.
11. Another recent amendment to UK legislation that is of high priority to the Department is "Lucy's Law", which directly addresses the unacceptable practice of "puppy farming" by requiring puppies to either be sold by a registered breeder, or adopted from an animal rescue centre.
12. A proposed timetable of secondary legislation planned to be made as a consequence of this Bill is set out in the Appendix to this explanatory note.
13. The Bill will also allow for the application of future legislation that has been proposed in the Animal Welfare (Sentencing) Bill 2019-21, which is progressing through Parliament at the present time. Future UK animal welfare legislation may also be applied to the Island subject to an Order made by the Council of Ministers and approved by Tynwald.

STRUCTURE OF THE BILL

14. The Bill comprises five clauses.

EUROPEAN CONVENTION ON HUMAN RIGHTS

15. In the opinion of the member moving the Bill, the provisions of the Animal Welfare Bill 2021 are compatible with Convention rights.

¹ e.g. the [Animal Health Act 1996](#).

² e.g. the [Cruelty to Animals Act 1997](#).

³ i.e. the Select Committee on Animal Welfare (Petition for Redress) 2015-16 [PP 2016/0005], [Volume 1](#), [Volume 2:1](#) & [Volume 2:2](#).

FINANCIAL EFFECTS OF THE BILL

16. In the view of the member moving the Bill, it is not expected to have any direct human or financial resource implications. However, there may be revenue generated for the Isle of Man Government following the imposition of fees that may be required as a consequence of secondary legislation made as a consequence of the Bill.

NOTES ON CLAUSES

17. Further to the long title set out in the preamble to the Bill, which describe the Bill's contents, **clause 1 (short title)** gives the Bill its short title.
18. **Clause 2 (commencement)** provides that the Bill will commence upon the making of an appointed day order (or orders) by the Department subject to such consequential, incidental, supplemental or transitional provisions as appear necessary or expedient.
19. **Clause 3 (interpretation)** provides the definition of key phrases contained within the Bill.
20. In particular, the clause provides for the definition of the term "companion animal" as being a non-livestock animal (including horses) that is being kept by being provided with food and shelter on a regular basis.
21. In addition, while the definition of "animal" only applies to vertebrate animals (e.g. fish, birds, reptiles and mammals) that are not livestock for the purposes of section 59 of the Animal Health Act 1996, this definition may also be extended to non-vertebrate animals further to an order made by the Department and approved by Tynwald. Such an order may be required to ensure basic animal welfare provisions can be applied, if necessary, to non-vertebrate companion animals (e.g. giant land snails).
22. This clause also defines what is meant by "UK legislation" and accordingly sets out the UK Acts and Bills of Parliament, and any secondary legislation made thereunder, which may be applied to the Island with appropriate modifications, etc., further to clause 4 of the Bill.
23. Notably, the Council of Ministers may, by order approved by Tynwald, amend the definition of "UK legislation" and thus the list of UK animal welfare legislation that may be applied to the Island as a consequence of this Bill. Such a provision will enable the Council of Ministers to update the list of UK animal welfare legislation that may be applied to the Island following changes in UK animal welfare legislation.
24. **Clause 4 (application of legislation relating to the welfare of companion animals)** of the Bill enables the Department, by order approved by Tynwald, to apply any provision of UK legislation or UK secondary legislation to the Island. Such an order must specify the exceptions, adaptation and modifications that have been made to the UK legislation, or UK secondary legislation, when applying it to the Island.

25. Furthermore, such an Order must have annexed to it a text of the legislation as applied to the Island, incorporating the changes that have been made. Before such an order is made the Department must –
 - a. in the case of an order applying UK legislation, conduct a public consultation; or
 - b. in the case of an order applying UK secondary legislation, consult such organisation as it considers represent interests which will be affected by the Order.
26. **Clause 5 (implementation by regulations of applied legislation relating to the welfare of companion animals)** of the Bill enables the Department, by regulations approved by Tynwald, to make provision it considers appropriate to deal with any matter arising as a consequence of implementing UK legislation or UK secondary that has been applied to the Island.
27. In particular, having regard to feedback from the public consultation on the Bill, such regulations may provide that their contravention be punishable, upon summary conviction, to a penalty of 2 years' custody. This would be as an alternative to, or in addition to, the imposition of a fine for a contravention of the regulations. The provisions relating to fines were based upon similar provisions set out in section 49 (punishment of summary offences not otherwise provided for) of the Animal Health Act 1996.
28. Before such regulations are made the Department must consult with such organisations at is considers represent interests which will be affected by the regulations.

Appendix

Draft programme of secondary legislation planned to be made using the vires of the Animal Welfare Bill 2021

Parliamentary session	Title	Description
2021/22	Animal Welfare (Duty of Care) Order	To apply provisions of the UK's Animal Welfare Act 2006 to set out the general duty of care that must be given to companion animals.
	Animal Welfare (Codes of Practice) Order	To apply, with modifications appropriate to the Island, the UK's animal welfare codes relating to – <ul style="list-style-type: none"> • Cats; • Dogs; and • Horses, ponies, donkeys, and their hybrids.
	Animal Welfare (Sale of Puppies and Kittens) Order	To apply provisions of the UK's Animal Welfare Act 2006 to regulate the private sale of puppies and kittens – commonly referred to as "Lucy's law". Once in effect it will ensure puppies and kittens are only purchased directly from a registered breeder, or by adoption from a rescue centre. This change is intended to prevent sale of animals for unregulated animal breeders (e.g. "puppy farms") where animals are raised in appalling conditions.
	Animal Welfare (Service Animals Offences) Order	To apply provisions of the UK's Animal Welfare Act 2006 to provide for greater legal protections for service animals – commonly referred to as "Finn's law". Once in effect this legislation will ensure persons who injure service animals (e.g. police dogs and horses) will, upon conviction, face a higher criminal sanction than at present.
2022/23	Animal Welfare (Sale and Care of Companion Animals) Order / Regulations	This secondary legislation will apply UK animal welfare legislation, supported with regulations made for the Island's own purposes to – <ul style="list-style-type: none"> • License the commercial sale of all animals sold in pet shops; • Update regulatory controls on the boarding of cats and dogs; and • Regulate providers of short-term care facilities for companion animals (e.g. "doggy day-care") and animal sanctuaries to ensure they operate under suitable and proportionate standards as compared to animal boarding providers.
2023/24	Animal Welfare (Licensing of Livery Yards and	This secondary legislation will apply UK animal welfare legislation, supported with regulations made for the Island's own purposes to –

	Horse Riding Establishments) Order / Regulations	<ul style="list-style-type: none">• Ensure commercial horse livery yards comply with the latest animal welfare standards; and• Provide for regulatory controls on the operation of horse riding establishments.
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