

# **Animal Welfare (Kept Animals) Bill**

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## **EXPLANATORY NOTES**

Explanatory notes to the Bill, prepared by the Department for Environment, Food and Rural Affairs are published separately as Bill 2-EN.

## **EUROPEAN CONVENTION ON HUMAN RIGHTS**

Secretary George Eustice has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Animal Welfare (Kept Animals) Bill are compatible with the Convention rights.

## **ENVIRONMENTAL STATEMENTS**

Secretary George Eustice has made the following statements under section 20(2)(a) and (3) of the Environment Act 2021.

In my view-

a) the Animal Welfare (Kept Animals) Bill contains provision which, if enacted, would be environmental law, and

b) the Bill will not have the effect of reducing the level of environmental protection provided for by any existing environmental law.



# Animal Welfare (Kept Animals) Bill

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[AS INTRODUCED]

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[AS INTRODUCED]

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# B I L L

TO

Make provision about the welfare of certain kept animals that are in, imported into, or exported from Great Britain, and for connected purposes.

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

## PART 1

### PRIMATES

#### CHAPTER 1

##### KEEPING PRIMATES

##### *Licensing requirement*

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

- (1) A person may not keep a primate unless authorised to do so under a licence under this Chapter (a “primate licence”).
- (2) A person who contravenes subsection (1) commits an offence.
- (3) Subsection (1) does not apply where a primate is kept in—
  - (a) a zoo within the meaning of the Zoo Licensing Act 1981 for which a licence is in force under that Act;
  - (b) a place specified in a licence under section 2C of the Animals (Scientific Procedures) Act 1986.
- (4) Subsection (1) is also subject to—
  - (a) a direction under section 15 (primates kept unlawfully), and
  - (b) Schedule 1 (which contains transitional provision).
- (5) A person who commits an offence under this section is liable on summary conviction to a fine.

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- (6) Schedule 2 confers powers on local authorities to issue fixed penalty notices in relation to offences under this Part.

*Primate licences: introductory*

## 2 Primate licences

- (1) A primate licence authorises its holder to keep, during the period for which the licence has effect, such number of primates of such species at such premises as the licence may specify. 5
- (2) A primate licence has effect for a period of six years from the date on which it comes into force, subject to the following provisions of this Chapter.

## 3 Licensing standards and other requirements 10

- (1) The appropriate national authority must by regulations make provision requiring the holder of a primate licence to meet standards specified in the regulations for the care and management of primates kept under the licence (“licensing standards”).
- (2) The licensing standards may include standards about – 15
- (a) the environment and accommodation that primates need;
  - (b) their diet;
  - (c) provision for their behavioural needs;
  - (d) their handling;
  - (e) their transportation; 20
  - (f) protecting them from pain, suffering, injury and disease.
- (3) The appropriate national authority may by regulations make provision imposing requirements on the holder of a primate licence in relation to –
- (a) information to be supplied to a local authority in relation to any primate kept under the licence (for example, where a primate dies, gives birth or is transferred to another person); 25
  - (b) microchipping of any primate kept under the licence.
- (4) Before making regulations under subsection (1) the appropriate national authority must consult such persons as the appropriate national authority considers appropriate. 30

*Primate licences: operation*

## 4 Applications

- (1) An individual who keeps or proposes to keep a primate in any premises may apply for a primate licence to the local authority in whose area the premises are situated. 35
- (2) An application may not be made by an individual –



- (a) who is under the age of 18, or
  - (b) who is disqualified from keeping primates.
- (3) The application must specify –
  - (a) the name and address of the applicant,
  - (b) the species of primate, and the number of primates of each species, to be kept under the licence, 5
  - (c) the premises where the primate or primates is or are to be kept, and
  - (d) the date from which the applicant proposes that the licence should have effect.
- (4) The application must specify, in relation to each primate proposed to be kept under the licence – 10
  - (a) its name and sex,
  - (b) its species, and
  - (c) its date of birth.
- (5) The application must specify such other information, and be in such form, as the local authority may reasonably require. 15
- (6) For the purposes of this section an individual is disqualified from keeping primates if the individual is disqualified from keeping primates of any description under –
  - (a) section 34(2) of the Animal Welfare Act 2006, 20
  - (b) section 1 of the Protection of Animals (Amendment) Act 1954,
  - (c) section 40(1) of the Animal Health and Welfare (Scotland) Act 2006 (asp 11), or
  - (d) section 33(1) of the Welfare of Animals Act (Northern Ireland) 2011 (c. 16). 25

## **5 Determination of applications**

- (1) Before determining whether to grant an application for a primate licence, the local authority to which the application is made must arrange for a veterinary surgeon to inspect the premises specified in the application to determine whether the licensing standards would be met if the application were granted. 30
- (2) If following an inspection under subsection (1) the local authority is satisfied that, if the application were granted, all the licensing standards would be met from the time the primate licence came into force, the local authority must grant the licence to the applicant with effect from such date as it may determine. 35
- (3) If following an inspection under subsection (1) the local authority –
  - (a) is not satisfied that a licensing standard would be met from the time the licence came into force, but
  - (b) considers that, if the applicant were to take certain steps, that standard would be met within a reasonable time after the licence came into force, 40

the local authority must grant the licence to the applicant, with effect from such date as it may determine, subject to a rectification condition (as to which, see section 6).

- (4) In any other circumstances the local authority must refuse the application.
- (5) For the purposes of subsections (2) and (3) a local authority may take into account – 5
  - (a) any previous failure by the applicant to meet the licensing standards, and
  - (b) any other conduct of the applicant that is relevant.
- (6) Schedule 3 contains provision for representations and appeals in relation to decisions of local authorities under this Chapter. 10

## 6 Conditions

- (1) A local authority must attach the general licence condition to any primate licence that it grants.
- (2) The general licence condition is a condition requiring the holder of the licence to – 15
  - (a) meet the licensing standards, and
  - (b) comply with any requirements in regulations under section 3(3).
- (3) Where a local authority grants a primate licence under section 5(3), the local authority must also attach one or more rectification conditions to the licence. 20
- (4) A rectification condition is a condition requiring the holder of a primate licence to take, within a period specified in the condition, such steps as the local authority considers necessary for the purpose of ensuring that a licensing standard is met.
- (5) Where a primate licence includes a rectification condition, the general licence condition does not have effect during the period specified, so far as relating to the licensing standard to which the rectification condition relates. 25

## 7 Variation and surrender

- (1) The holder of a primate licence may apply to the local authority that granted it to vary the licence so as to – 30
  - (a) reduce or increase the number of primates of any species specified in the licence as authorised to be kept under it,
  - (b) add or remove a species of primate specified in the licence, or
  - (c) change the premises specified in the licence to other premises in the area of the same local authority. 35
- (2) On an application under subsection (1) the local authority –
  - (a) must grant the application and vary the licence as requested, if the application is to remove a species of primate kept under the licence, and

- (b) in other circumstances may grant the application and vary the licence to any extent as requested.
- (3) Before determining whether to vary a licence under subsection (2)(b) a local authority –
  - (a) may request further information from the licence-holder; 5
  - (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. 10
- (4) A primate licence may be surrendered by its holder at any time.
- (5) See also Schedule 3 (representations and appeals).

## **8 Renewal**

- (1) The holder of a primate licence may apply for renewal of the licence to the local authority that granted the licence. 15
- (2) The application must be made in the first six months of the final year for which the licence has effect.
- (3) The application must specify such information, and be in such form, as the local authority may determine.
- (4) Before determining whether to grant the application, the local authority must arrange for a veterinary surgeon to inspect the premises specified in the licence to determine whether the licensing standards would continue to be met if the application were granted. 20
- (5) If following an inspection under subsection (4) the local authority is satisfied that, if the application were granted, all the licensing standards would continue to be met, the local authority must grant the application and renew the licence for a further period of six years. 25
- (6) If following an inspection under subsection (4) the local authority –
  - (a) is not satisfied that a licensing standard would continue to be met, but 30
  - (b) considers that, if the applicant were to take certain steps, that standard would be met within a reasonable time after the licence was renewed, the local authority must grant the application and renew the licence for a further period of six years subject to such rectification conditions as the local authority may determine. 35
- (7) In any other circumstances the local authority must refuse the application.
- (8) 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.
- (9) See also Schedule 3 (representations and appeals).
- (10) Where a primate licence is renewed under this section, the renewal has effect from the end of the six-year period for which it previously had effect. 5
- (11) A primate licence may be renewed under this section any number of times.

## 9 Death of licence-holder

- (1) This section applies where the holder of a primate licence dies during the period for which the licence has effect. 10
- (2) The licence is deemed to be granted to the licence-holder's personal representatives.
- (3) If the personal representatives do not notify the local authority of the death within the period of 28 days beginning with the date of death, the licence deemed to be granted under subsection (2) expires at the end of that period. 15
- (4) If the personal representatives do notify the local authority of the death within that 28-day period –
  - (a) the licence deemed to be granted to them expires at the end of the period of three months beginning with the date of the licence-holder's death, 20
  - (b) the local authority may on application by the personal representatives extend the period for which the licence has effect for a further period of up to three months if satisfied that it is appropriate to do so in all the circumstances, and
  - (c) if before the time when the licence would otherwise expire by virtue of paragraph (a) or (b) any of the personal representatives applies for a new licence under section 4, the licence continues to have effect until the application is determined. 25

### *Inspections and fees relating to primate licences*

## 10 Inspections of licensed premises 30

- (1) A local authority that has granted a primate licence –
  - (a) may, during the period for which the licence has effect, arrange for a suitable person to inspect the premises specified in the licence to determine whether the licensing standards and any rectification conditions are being met, and 35
  - (b) must do so at least twice in that period.
- (2) An inspection under subsection (1) may be carried out at any reasonable hour.

## 11 Fees

A local authority may –

- (a) charge a fee in respect of any application relating to a primate licence;
- (b) charge a fee in respect of any inspection which it must or may arrange under this Chapter.

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### *Enforcement of primate licences*

## 12 Offences

- (1) The holder of a primate licence who fails to comply with the general licence condition commits an offence.
- (2) In proceedings for an offence under this section it is a defence for a person to prove that they took all reasonable precautions and exercised all due diligence to comply with the general licence condition. 10
- (3) A person who commits an offence under this section is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (4) See also Schedule 2 (fixed penalty notices). 15

## 13 Rectification notices

- (1) If a local authority that has granted a primate licence considers that the licence-holder is failing to meet any of the licensing standards, the authority may serve a notice under this section (a “rectification notice”) on the licence-holder. 20
- (2) A rectification notice must –
  - (a) state that the local authority considers that the licence-holder is failing to meet a licensing standard, and why,
  - (b) specify the steps that the local authority considers the licence-holder needs to take to meet the standard, 25
  - (c) specify a period not exceeding two years for the taking of those steps (“the rectification period”), and
  - (d) explain the effect of subsection (3).
- (3) Where a licence-holder is given a rectification notice –
  - (a) no proceedings for an offence under section 12 may be instituted, and no fixed penalty notice under Schedule 2 relating to such an offence may be given, before the end of the rectification period in respect of the non-compliance which gave rise to the notice or any continuation of it, and 30
  - (b) if the steps specified in the notice are taken before the end of the rectification period, no such proceedings or notice may be instituted or given in respect of the non-compliance which gave rise to the notice or any continuation of it prior to the taking of those steps. 35

- (4) The local authority may extend the rectification period, and may do so more than once, so long as the rectification period as extended does not exceed two years.
- (5) A licence-holder who fails to comply with a rectification notice commits an offence. 5
- (6) A person who commits an offence under this section is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (7) See also Schedule 2 (fixed penalty notices) and Schedule 3 (representations and appeals).

#### **14 Revocation etc of licence** 10

- (1) A local authority that has granted a primate licence must revoke it if the licence-holder is convicted of an offence under –
  - (a) the Animal Welfare Act 2006, or
  - (b) section 1 or 17.
- (2) A local authority that has granted a primate licence may revoke it if the licence-holder is issued with a fixed penalty notice under Schedule 2 in respect of an offence under section 1 or 17 and discharges liability for the offence in accordance with the notice. 15
- (3) A local authority that has granted a primate licence may also revoke or vary it if the authority is satisfied that the licence-holder has failed to –
  - (a) comply with the general licence condition,
  - (b) allow access for an inspection under this Part,
  - (c) pay a fee charged under this Part, or
  - (d) take the steps specified in a rectification notice.20
- (4) The reference in subsection (3) to varying a primate licence is to varying it by –
  - (a) reducing the number of primates of any species specified in the licence as authorised to be kept under it, or
  - (b) removing any species of primate specified in the licence.25
- (5) See also Schedule 3 (representations and appeals). 30

#### *Primates kept without a primate licence*

#### **15 Directions**

- (1) This section applies where a local authority is satisfied that a primate is being kept in the authority's area by a person ("the keeper") in contravention of section 1(1). 35

- (2) The local authority may give a direction that the keeper is not to be regarded as contravening section 1(1) in respect of the keeping of the primate during a period specified in the direction (“the suspension period”).
- (3) The suspension period may not begin before the date of the direction under subsection (2). 5
- (4) Where the local authority gives a direction under subsection (2), the authority –
  - (a) must give the keeper directions to secure that, during the suspension period –
    - (i) the basic welfare needs of the primate are met, 10
    - (ii) the primate is registered with a veterinary practice,
    - (iii) the primate receives an initial health check, and subsequent annual health checks, from a veterinary surgeon, and
    - (iv) reports from the health checks are submitted to the local authority, and 15
  - (b) may, if the local authority considers it appropriate, give the keeper –
    - (i) other directions for the purpose of securing the welfare of the primate during the suspension period,
    - (ii) directions requiring the keeper to do anything that the general licence condition requires the holder of a primate licence to do, or 20
    - (iii) directions requiring the primate to be neutered.
- (5) If the local authority is satisfied that the keeper has failed to comply with a direction under subsection (4), it may revoke its direction under subsection (2) (but not in respect of any period before the date of the revocation). 25

## **16 Forfeiture**

- (1) This section applies where a person (“the offender”) –
  - (a) is convicted of an offence under section 1, or
  - (b) is issued with a fixed penalty notice under Schedule 2 in respect of an offence under section 1 and discharges liability for the offence in accordance with the notice. 30
- (2) The local authority in whose area the primate is kept may apply to a magistrates’ court for an order that the primate be –
  - (a) handed over to another person,
  - (b) sold or otherwise disposed of, or 35
  - (c) put down.
- (3) Where a magistrates’ court makes an order under this section, it may give such directions for the purpose of giving effect to the order as it considers appropriate, including directions –
  - (a) authorising entry to premises, and 40
  - (b) requiring a person to pay the costs of giving effect to the order.

- (4) Where the primate which is the subject of an order under this section is pregnant, the order may relate to its offspring when born.
- (5) An eligible person may appeal to the Crown Court against an order under this section within the period of 28 days beginning with the date of the order.
- (6) An eligible person is – 5
  - (a) the offender;
  - (b) if different, the person who owns the primate.
- (7) On an appeal under subsection (5) the Crown Court may uphold, rescind or vary the order.
- (8) An order under this section does not have effect until whichever is the later of – 10
  - (a) the end of the appeal period referred to in subsection (5);
  - (b) if an appeal is made within that period, the time when the appeal is finally determined or withdrawn.
- (9) But the magistrates' court may give directions as to how the primate is to be dealt with until the order takes effect, which may include directions – 15
  - (a) for the primate to be handed over to another person,
  - (b) conferring powers of entry, or
  - (c) requiring the payment of expenses.

## CHAPTER 2

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### SELLING AND BREEDING PRIMATES

#### 17 Selling primates to unlicensed persons

- (1) It is an offence to sell, give or otherwise transfer ownership of a primate to a person knowing, or having reasonable grounds to suspect, that the person will keep the primate in contravention of section 1(1). 25
- (2) A person who commits an offence under this section is liable on summary conviction to a fine.
- (3) See also Schedule 2 (fixed penalty notices).

#### 18 Breeding primates

- (1) A person commits an offence if the person – 30
  - (a) takes steps for the purpose of securing that a primate which is kept by that person without relevant authorisation breeds with another primate, or
  - (b) keeps two or more primates without relevant authorisation where –
    - (i) the primates are not neutered, and 35
    - (ii) the primates are kept in conditions or circumstances where they may breed.



- (2) For the purposes of this section, a primate is kept without relevant authorisation if it is not kept—
  - (a) under a licence under this Part,
  - (b) in a zoo within the meaning of the Zoo Licensing Act 1981 for which a licence is in force under that Act, or 5
  - (c) in a place specified in a licence under section 2C of the Animals (Scientific Procedures) Act 1986.
- (3) A person who commits an offence under this section is liable on summary conviction to a fine.
- (4) See also Schedule 2 (fixed penalty notices). 10

### CHAPTER 3

#### SUPPLEMENTARY AND GENERAL

##### *Powers of entry*

## 19 Powers of entry

Schedule 4 confers powers of entry in relation to offences under sections 1, 12, 17 and 18. 15

##### *Oversight of local authority functions*

## 20 Guidance

- (1) The appropriate national authority may give guidance to local authorities in respect of the exercise of their functions under this Part. 20
- (2) The guidance may in particular include guidance relating to the powers of local authorities under this Part to—
  - (a) attach rectification conditions;
  - (b) charge fees;
  - (c) issue rectification notices; 25
  - (d) revoke or vary primate licences;
  - (e) issue fixed penalty notices.
- (3) The guidance must be laid before—
  - (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. 30
- (4) The appropriate national authority must publish any guidance given under this section.
- (5) Local authorities must, in the exercise of their functions under this Part, have regard to guidance given by the appropriate national authority.

## **21 Information**

- (1) The appropriate national authority may require a local authority to provide any of the following information to the appropriate national authority –
  - (a) the number of primate licences in force in their area;
  - (b) the number of primates in their area kept under primate licences; 5
  - (c) the level of fees charged by the local authority under this Part;
  - (d) the number of fixed penalty notices issued by the local authority under Schedule 2 within a given period;
  - (e) any other information relating to the discharge of the local authority’s functions under this Part that the appropriate national authority may reasonably require. 10
- (2) The appropriate national authority may require information to be provided under subsection (1) within such period of at least a month as the appropriate national authority may reasonably require.

*General* 15

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

- (1) The appropriate national authority may by regulations amend this Part so that it, or any of its provisions, applies not only to primates but also to one or more other kinds of wild animal.
- (2) Regulations under this section may modify any provision of this Part in its application to a wild animal that is not a primate. 20
- (3) The consequential, supplementary, or incidental provision that may be made under this section includes provision made by amending an Act or an instrument made under an Act.
- (4) Before making regulations under this section the appropriate national authority must consult such persons as the appropriate national authority considers appropriate. 25
- (5) In this section “wild animal” means an animal not normally domesticated in Great Britain.

## **23 Meaning of “keep”** 30

- (1) For the purposes of this Part, a person “keeps” a primate if they have it in their possession, subject to subsection (2).
- (2) A person does not “keep” a primate if they have it in their possession merely for the purpose of –
  - (a) preventing it from causing damage, 35
  - (b) restoring it to its owner,
  - (c) enabling it to undergo veterinary treatment, or
  - (d) transporting it on behalf of another person.

- (3) Where a primate ceases to be in the possession of a person who kept it, while remaining in England and Wales, that person is for the purposes of this Act to be regarded as continuing to keep it until another person does so.

## 24 General interpretation

- (1) In this Part— 5
- “appropriate national authority” means—
- (a) in relation to England, the Secretary of State, and
  - (b) in relation to Wales, the Welsh Ministers;
- “keep” has the meaning given in section 23;
- “general licence condition” means the condition of a primate licence referred to in section 6(2); 10
- references to the “holder” of a primate licence are to the person to whom it is granted;
- “licensing standards” has the meaning given in section 3(1);
- “local authority”, in relation to England, means— 15
- (a) a district council,
  - (b) a county council in England for an area for which there is no district council,
  - (c) a London borough council,
  - (d) the Common Council of the City of London, and 20
  - (e) the Council of the Isles of Scilly;
- “local authority”, in relation to Wales, means a county council or county borough council in Wales;
- “premises” includes—
- (a) a vehicle, vessel or aircraft, and 25
  - (b) a tent or movable structure;
- “primate” means an animal of any species, other than *homo sapiens*, which belongs to the order Primates;
- “primate licence” means a licence under Chapter 1;
- “suitable person”, in relation to an inspection arranged by a local authority, means— 30
- (a) a veterinary surgeon, or
  - (b) any other person who, in the view of the local authority, is suitably qualified and competent to carry out the inspection;
- “veterinary surgeon” means a person registered in the register of veterinary surgeons, or the supplementary veterinary register, kept under the Veterinary Surgeons Act 1966. 35
- (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. 40

## PART 2

### DOGS ATTACKING OR WORRYING LIVESTOCK

#### *Attacking or worrying livestock*

#### **25 Offence where dog attacks or worries livestock**

- |  |    |
|--|----|
| (1) Subject to subsections (2) to (4), a person commits an offence if—   | 5  |
| (a) a dog attacks or worries livestock on any agricultural land or a road or path, and   |    |
| (b) the person owns, or is in charge of, the dog when it does so.  |    |
| (2) A person does not commit an offence under this section by reason of a dog attacking or worrying livestock if, when the dog attacks or worries the livestock—   | 10 |
| (a) the livestock are trespassing on agricultural land, and  |    |
| (b) the dog is owned by, or in the charge of, the occupier of that land, unless the person causes the dog to attack the livestock.   |    |
| (3) A person does not commit an offence under this section by reason of a dog attacking or worrying livestock if, when the dog attacks or worries the livestock, the livestock are on a road or path as a result of straying from where they are kept, unless the person causes the dog to attack the livestock. | 15 |
| (4) The owner of a dog does not commit an offence under this section by reason of the dog attacking or worrying livestock, if the owner proves that the dog was in the charge of another person when it attacked or worried the livestock and that—  | 20 |
| (a) the owner reasonably believed that other person to be a fit and proper person to be in charge of the dog, or   |    |
| (b) the owner did not consent to the dog being in the charge of that other person.   | 25 |
| (5) A person who commits an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.  |    |
| (6) See sections 29 to 35 for provision about orders that may be imposed upon conviction for an offence under this section (whether or not in addition to a fine under subsection (5)).  | 30 |

#### *Powers before conviction*

#### **26 Seizure and detention of dogs**

- |  |    |
|--|----|
| (1) Subsection (2) applies if—   |    |
| (a) a dog is found on any land,  | 35 |
| (b) a constable has reasonable grounds to believe that the dog has attacked or worried livestock on agricultural land or a road or path, and |    |

- (c) no person is present who admits to being the owner of the dog or in charge of it.
- (2) The constable may seize the dog and detain it, until the owner has claimed it and paid all expenses incurred by reason of its seizure and detention, for the purpose of ascertaining who is the owner of the dog. 5
- (3) If the owner of the dog does not claim it and pay the amounts due under subsection (2) before the end of the period of 7 days beginning with the day after the day on which the dog was seized under that subsection, a constable may dispose of the dog.
- (4) If the constable disposes of the dog by giving it or selling it to a person acting in good faith, that person becomes the owner of the dog. 10
- (5) The chief officer of police for each police area must keep, or cause to be kept, a register of all dogs seized under subsection (2) in their area, containing the following information—
  - (a) a brief description of each dog, including its breed (if known), and any distinctive physical characteristics or markings, tattoos or scars; 15
  - (b) any information which is recorded on any tag or collar worn by, or which is otherwise carried by, a dog;
  - (c) the date, time and place of the seizure of each dog;
  - (d) if a dog is disposed of under subsection (3)— 20
    - (i) the date of disposal,
    - (ii) how the dog was disposed of,
    - (iii) if it was disposed of by sale, the name and address of the person to whom it was sold and the price for which it was sold, 25
    - (iv) if it was disposed of by gift, the name and address of the person to whom it was given, and
    - (v) if it was disposed of by being destroyed, the name and address of the person who destroyed it;
  - (e) if a dog is returned to a person claiming to be its owner— 30
    - (i) the date it was returned, and
    - (ii) the name and address of the person to whom it was returned.
- (6) Each register kept under subsection (5) must be available, at all reasonable times, for inspection by the public free of charge.
- (7) Subsection (8) applies if a constable has reasonable grounds to believe that— 35
  - (a) a dog has attacked or worried livestock on agricultural land or a road or path, and
  - (b) unless it is detained, there is a risk that the dog could attack or worry livestock again.
- (8) The constable may seize the dog and detain it— 40

- (a) until an investigation has been carried out into whether an offence under section 25 has been committed by reason of the dog attacking or worrying livestock, or
  - (b) if proceedings are brought in respect of such an offence, until those proceedings have been determined or withdrawn. 5
- (9) If the owner of a dog detained under subsection (8) is convicted of an offence under section 25 in relation to that dog, the owner is liable to pay all the expenses incurred by reason of its seizure and detention.

## **27 Collection of samples and impressions**

- (1) Subsection (2) applies where a constable has reasonable grounds to believe that – 10
  - (a) a dog has attacked or worried livestock on agricultural land or a road or path, and
  - (b) information derived from a sample taken from the dog, or an impression taken from the dog, might provide evidence of an offence under section 25. 15
- (2) A sample or (as the case may be) impression may be taken from the dog, which may be seized and detained by a constable for the purposes of the sample or impression being taken.
- (3) Subsection (4) applies where a constable has reasonable grounds to believe that – 20
  - (a) a dog has attacked or worried livestock on agricultural land or a road or path, and
  - (b) information derived from a sample taken from any livestock, or an impression taken from any livestock, might provide evidence of an offence under section 25. 25
- (4) A sample or (as the case be) impression may be taken from the livestock.
- (5) If the act of taking a sample or impression under this section would amount to veterinary surgery, it must be done by a veterinary surgeon.
- (6) A sample or impression taken under this section may be retained – 30
  - (a) until an investigation has been carried out into whether an offence under section 25 has been committed by reason of the dog attacking or worrying livestock, or
  - (b) if proceedings are brought in respect of such an offence, until those proceedings have been determined or withdrawn. 35
- (7) In this section –
  - “sample” means any material that has come from the body of an animal and consists of, or includes, animal cells;
  - “veterinary surgeon” means a person registered in the register of veterinary surgeons, or the supplementary veterinary register, kept under the Veterinary Surgeons Act 1966; 40

“veterinary surgery” has the same meaning as in that Act.

## 28 Power of justice of the peace to authorise entry and search

- (1) Subsection (2) applies if, on an application made by a constable, a justice of the peace is satisfied that there are reasonable grounds for believing –
  - (a) that an offence under section 25 has been committed, and 5
  - (b) that the dog in respect of which the offence has been committed is on premises specified in the application.
- (2) The justice of the peace may issue a warrant authorising a constable to enter and search the premises in order to –
  - (a) identify the dog, 10
  - (b) seize and detain the dog under section 26, or
  - (c) take a sample or impression from the dog under section 27.
- (3) Subsection (4) applies if, on an application made by a constable, a justice of the peace is satisfied that there are reasonable grounds for believing –
  - (a) that an offence under section 25 has been committed, and 15
  - (b) that anything that may be evidence of that offence could be on premises specified in the application.
- (4) The justice of the peace may issue a warrant authorising a constable to enter and search the premises in order to seize any evidence of that offence that may be found. 20
- (5) A warrant under this section may authorise the constable executing it to use reasonable force if necessary.

*Orders available after conviction etc*

## 29 Control order upon conviction under section 25

- (1) This section applies where a magistrates’ court convicts a person (“the offender”) of an offence under section 25 in respect of a dog (“the relevant dog”) attacking or worrying livestock. 25
- (2) If the court is satisfied that the relevant dog was not under proper control at the time of the offence, the court may make an order (a “control order”) specifying one or more measures that must be taken for the purposes of ensuring that the relevant dog is kept under proper control in the future. 30
- (3) A control order may require a measure specified in it to be taken by –
  - (a) the offender,
  - (b) the owner of the relevant dog (if the offender is not the owner), or
  - (c) both the offender and the owner of the relevant dog. 35
- (4) If the offender is not the owner of the relevant dog, the court may not make a control order that requires the owner to take a measure specified in the order unless –

- (a) it has given the owner of the relevant dog an opportunity to be heard, or
  - (b) it is satisfied that it is not reasonably practicable to communicate with the owner.
- (5) Where a court makes a control order, it must— 5
  - (a) give its reasons for making the order in open court, and
  - (b) cause them to be entered in the register of its proceedings.
- (6) Where a court makes a control order, each of the offender and, if different and required by the order to take a measure specified in it, the owner of the relevant dog may appeal against the order to the Crown Court. 10
- (7) A person who breaches a control order, without a reasonable excuse, commits an offence.
- (8) A person who commits an offence under subsection (7) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- 30 Destruction order upon conviction under section 25** 15
  - (1) This section applies where a magistrates' court convicts a person ("the offender") of an offence under section 25 in respect of a dog ("the relevant dog") attacking or worrying livestock.
  - (2) If the court is satisfied that there is a risk that the relevant dog could attack or worry livestock again, the court may order the relevant dog to be destroyed (a "destruction order"). 20
  - (3) If the offender is not the owner of the relevant dog, the court may not make a destruction order unless—
    - (a) it has given the owner of the relevant dog an opportunity to be heard, or 25
    - (b) it is satisfied that it is not reasonably practicable to communicate with the owner.
  - (4) Where a court makes a destruction order, it must—
    - (a) give its reasons for making the order in open court, and
    - (b) cause them to be entered in the register of its proceedings. 30
  - (5) Where a court makes a destruction order, each of the offender and, if different, the owner of the relevant dog may appeal against the order to the Crown Court.
- 31 Disqualification order upon conviction under section 25 or breach of control order** 35
  - (1) This section applies where a magistrates' court convicts a person ("the offender") of—
    - (a) an offence under section 25, or



- (b) an offence under section 29(7).
  - (2) The court may make an order (a “disqualification order”) disqualifying the offender, for such period as the court thinks fit, from –
    - (a) owning dogs,
    - (b) keeping dogs, or 5
    - (c) both.
  - (3) The disqualification order may specify a period during which the offender may not make an application under section 33 to terminate the order.
  - (4) The court may, where it appears to the court that the offender owns or keeps a dog, suspend the operation of the disqualification order for such period as it thinks necessary for enabling alternative arrangements to be made in respect of the dog. 10
  - (5) Where a court makes a disqualification order upon conviction for an offence under section 25, it must –
    - (a) give its reasons for making the order in open court, and 15
    - (b) cause them to be entered in the register of its proceedings.
  - (6) A person who breaches a disqualification order commits an offence.
  - (7) A person who commits an offence under subsection (6) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- 32 Seizure and disposal of dogs in connection with disqualification order** 20
- (1) Where, upon a court making a disqualification order, it appears to the court that the person to whom the order applies owns or keeps a dog contrary to the order, the court may order that the dog be taken into possession.
  - (2) Where a person is convicted of an offence under section 31(6) by reason of owning or keeping a dog in breach of a disqualification order, the court by which the person is convicted may order that all dogs owned or kept in breach of the order be taken into possession. 25
  - (3) An order under subsection (1) or (2), so far as relating to any dog owned by the person to whom the disqualification order applies, must make provision for disposal of the dog. 30
  - (4) Any dog taken into possession in pursuance of an order under subsection (1) or (2) that is not owned by the person subject to the disqualification order is to be dealt with in such manner as an appropriate court may order.
  - (5) A court may not make an order for disposal of the dog under subsection (4) unless – 35
    - (a) it has given the owner of the dog an opportunity to be heard, or
    - (b) it is satisfied that it is not reasonably practicable to communicate with the owner.

- (6) Where a court makes an order under subsection (4) for the disposal of the dog, the owner of the dog may appeal against the order to the Crown Court.
- (7) In subsection (4) “appropriate court” means –
  - (a) the magistrates’ court which made the order under subsection (1) or (2), or
  - (b) another magistrates’ court acting for the same local justice area as that court.

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### **33 Termination of disqualification order**

- (1) A person who is subject to a disqualification order may apply to an appropriate court for the order to be terminated.
- (2) No application under subsection (1) may be made –
  - (a) before the end of the period of one year beginning with the date on which the disqualification order was made,
  - (b) where a previous application under that subsection has been made in relation to the same order, before the end of the period of one year beginning with the date on which the previous application was determined, or
  - (c) before the end of any period specified under section 31(3), or subsection (5), in relation to the order.
- (3) On an application under subsection (1), the court may –
  - (a) terminate the disqualification order,
  - (b) vary the order so as to make it less onerous, or
  - (c) refuse the application.
- (4) When determining an application under subsection (1), the court is to have regard to –
  - (a) the character of the applicant,
  - (b) the applicant’s conduct since the disqualification order was made, and
  - (c) any other relevant circumstances.
- (5) Where the court refuses an application under subsection (1) or varies a disqualification order on 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 concerned.
- (6) The court may order an applicant to pay all or part of the costs of an application.
- (7) In subsection (1) “appropriate court” means –
  - (a) the magistrates’ court which made the disqualification order, or
  - (b) another magistrates’ court acting for the same local justice area as that court.

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### **34 Sections 30 and 32: supplementary**

- (1) The court by which a destruction order or an order under section 32 is made may –
  - (a) appoint a person to carry out, or arrange for the carrying out of, the order; 5
  - (b) require any person who has possession of a dog to which the order applies to deliver it up to enable the order to be carried out;
  - (c) give directions with respect to the carrying out of the order;
  - (d) confer additional powers (including power to enter premises where a dog to which the order applies is being kept) for the purpose of, or in connection with, the carrying out of the order; 10
  - (e) order the person who committed the offence on which the order was made, or another person, to reimburse the expenses of carrying out the order.
- (2) A person who fails to comply with a requirement imposed under subsection (1)(b) commits an offence. 15
- (3) A person who commits an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) Directions under subsection (1)(c) may –
  - (a) specify the manner in which a dog is to be disposed of, or 20
  - (b) delegate the decision about the manner in which a dog is to be disposed of to a person appointed under subsection (1)(a).
- (5) In determining how to exercise its powers under section 32 and this section so far as it has effect in relation to section 32, the court is to have regard (amongst other things) to –
  - (a) the desirability of protecting the value of any dog to which the order under section 32 applies, and
  - (b) the desirability of avoiding increasing any expenses which a person may be ordered to reimburse. 25
- (6) In determining how to exercise a power delegated under subsection (4)(b), a person is to have regard, amongst other things, to the things mentioned in subsection (5)(a) and (b). 30
- (7) If the owner of a dog ordered to be disposed of under section 32 is subject to a liability by virtue of subsection (1)(e), any amount to which the owner is entitled as a result of sale of the dog may be reduced by an amount equal to that liability. 35

### **35 Control, destruction and disqualification orders: appeals**

- (1) Nothing may be done under an order under any of sections 29 to 32 with respect to a dog unless –
  - (a) the period for giving notice of appeal against the order has expired, 40

- (b) the period for giving notice of appeal against the conviction on which the order was made has expired, and
  - (c) if the order or conviction is the subject of an appeal, the appeal has been determined or withdrawn.
- (2) Where the effect of an order is suspended under subsection (1) – 5
  - (a) no requirement imposed or directions given in connection with the order have effect, but
  - (b) the court may give directions about how any dog to which the order applies is to be dealt with during the suspension.
- (3) Directions under subsection (2)(b) may, in particular – 10
  - (a) authorise the dog to be taken into possession;
  - (b) authorise the dog to be cared for either on the premises where it was being kept when it was taken into possession or at some other place;
  - (c) appoint a person to carry out, or arrange for the carrying out of, the directions; 15
  - (d) require any person who has possession of the dog to deliver it up for the purposes of the directions;
  - (e) confer additional powers (including power to enter premises where the dog is being kept) for the purpose of, or in connection with, the carrying out of the directions; 20
  - (f) provide for the recovery of any expenses in relation to the removal or care of the dog which are incurred in carrying out the directions.
- (4) A person who fails to comply with a requirement imposed under subsection (3)(d) commits an offence.
- (5) A person who commits an offence under subsection (4) is liable on summary conviction to a fine not exceeding level 3 on the standard scale. 25
- (6) Any expenses a person is directed to pay under subsection (3)(f) are recoverable summarily as a civil debt.

### *General*

- 36 Crown application** 30
- (1) Subject to subsections (2) to (8), this Part binds the Crown.
  - (2) The Crown is not to be criminally liable under this Part.
  - (3) But this Part applies to persons in the service of the Crown as it applies to other persons.
  - (4) 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. 35
  - (5) If the Secretary of State certifies that it appears to the Secretary of State appropriate in the interests of national security that powers of entry conferred

by this Part should not be exercisable in relation to Crown premises specified in the certificate, those powers are not exercisable in relation to those premises.

- (6) In subsection (5), “Crown premises” means premises held, or used, by or on behalf of the Crown.
- (7) No power of entry conferred by this Part may be exercised in relation to land belonging to Her Majesty in right of her private estates. 5
- (8) In subsection (7), the reference to Her Majesty’s private estates is to be construed in accordance with section 1 of the Crown Private Estates Act 1862.

### **37 Meaning of “worrying livestock”**

- (1) References in this Part to a dog worrying livestock are to a dog – 10
  - (a) chasing livestock in such a way as may reasonably be expected to –
    - (i) cause injury or suffering to the livestock, or
    - (ii) in the case of female livestock, cause abortion, or loss of or diminution in their produce, or
  - (b) subject to subsection (2), being at large in a field or enclosure in which there are relevant livestock. 15
- (2) Subsection (1)(b) does not apply in relation to –
  - (a) a dog owned by or in the charge of –
    - (i) the occupier of the field or enclosure,
    - (ii) the owner of the relevant livestock, or 20
    - (iii) a person authorised by either of those persons, or
  - (b) a police dog, a guide dog, a trained sheep dog, a working gun dog or a pack of hounds.
- (3) For the purposes of subsection (1)(b), a dog is “at large” unless –
  - (a) it is on a lead of a length of 1.8 metres or less, or 25
  - (b) it is within sight of a person and the person –
    - (i) remains aware of the dog’s actions, and
    - (ii) has reason to be confident that the dog will return to the person reliably and promptly on the person’s command.
- (4) In subsection (1)(b) “relevant livestock” means – 30
  - (a) poultry,
  - (b) enclosed gamebirds, or
  - (c) sheep.
- (5) The Secretary of State may by regulations amend the definition of “relevant livestock” in subsection (4). 35

### **38 General interpretation**

- (1) In this Part –
  - “agricultural land” means –

- (a) land used as arable, meadow or grazing land or for the purpose of keeping livestock,
  - (b) market gardens,
  - (c) allotments,
  - (d) nursery grounds, or
  - (e) orchards;
- “destruction order” has the meaning given by section 30(2);
- “disqualification order” has the meaning given by section 31(2);
- “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;
- “enclosed gamebirds” means any birds other than poultry or ratites so long as they are being kept on land enclosed by a barrier intended to prevent their escape, with the intention of—
  - (a) releasing them for the purposes of being shot, or
  - (b) using them for the purposes of meat production or breeding;
- “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;
- “livestock” means—
  - (a) cattle and other bovine animals,
  - (b) horses and other equine animals,
  - (c) poultry,
  - (d) enclosed gamebirds,
  - (e) sheep,
  - (f) goats,
  - (g) pigs or enclosed wild boar,
  - (h) camelids,
  - (i) ratites, or
  - (j) enclosed deer;
- “poultry” means domestic fowls, turkeys, geese or ducks;
- “road or path” includes any road, track or path (including the verge of any road, track or path), whether or not a public right of way;
- “worrying livestock” has the meaning given by section 37.
- (2) In this Part, references to disposing of a dog include destroying it, but do not include disposing of it for the purposes of vivisection.
- (3) The Secretary of State may by regulations amend the definition of “livestock” in subsection (1).

### 39 Repeal of the 1953 Act in England and Wales

The Dogs (Protection of Livestock) Act 1953 is repealed.

## PART 3

### OTHER PROVISIONS ABOUT KEPT ANIMALS ETC

#### *Export of livestock*

#### **40 Prohibition of export of livestock for slaughter etc**

- (1) A person may not export relevant livestock from Great Britain for slaughter. 5
- (2) A person who contravenes subsection (1) commits an offence.
- (3) A person “exports” relevant livestock from Great Britain if –
  - (a) the person sends, or attempts to send, relevant livestock from a place in Great Britain to anywhere outside the British Islands,
  - (b) the person transports, or attempts to transport, relevant livestock from or through Great Britain to anywhere outside the British Islands, or 10
  - (c) the person organises, or attempts to organise, the transport of relevant livestock from or through Great Britain to anywhere outside the British Islands.
- (4) A person exports relevant livestock “for slaughter” if the person exporting the relevant livestock knows, or could reasonably be expected to know, that the relevant livestock is being exported –
  - (a) for the purposes of being slaughtered, or
  - (b) for the purposes of being fattened for slaughter. 15
- (5) A person who commits an offence under subsection (2) is liable –
  - (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 51 weeks, to a fine or to both;
  - (b) on summary conviction in Scotland, to imprisonment for a term not exceeding 6 months, to a fine not exceeding level 5 on the standard scale or to both. 20
- (6) In relation to an offence committed before the coming into force of section 281(5) of the Criminal Justice Act 2003, the reference in subsection (5)(a) to 51 weeks is to be read as a reference to 6 months. 25
- (7) In this section “relevant livestock” means –
  - (a) cattle and other bovine animals,
  - (b) horses and other equine animals,
  - (c) sheep,
  - (d) goats, or
  - (e) pigs or wild boar. 30
- (8) In the Animal Health Act 1981 –
  - (a) omit sections 40 to 49 (provision relating to the export of horses);
  - (b) in section 83A (electronic communications: Scotland), in subsection (3)(a), omit “40(1)(b), 41(1)(b), 47,”; 35

- (c) in section 95 (savings), in subsection (7), omit paragraph (b).

#### **41 Power to make provision in connection with the enforcement of section 40**

- (1) An appropriate national authority may by regulations make provision about the enforcement of section 40.
- (2) The provision that may be made under subsection (1) includes (amongst other things) any provision that the appropriate national authority considers appropriate for, or in connection with—
  - (a) preventing, detecting, investigating or punishing contraventions of section 40(1), or
  - (b) other than in relation to Scotland, prosecuting offences under section 40(2). 10
- (3) Regulations under subsection (1) may (amongst other things)—
  - (a) confer a function (including a function involving the exercise of a discretion) on a specified person;
  - (b) make provision about the keeping of records or the provision of information; 15
  - (c) confer a power of entry (whether or not on the authority of a warrant);
  - (d) confer a power of inspection, search, seizure or detention (whether or not on the authority of a warrant);
  - (e) authorise, or make provision for the authorisation of, the use of reasonable force in connection with a power mentioned in paragraph (c) or (d); 20
  - (f) confer a power to impose a civil sanction on a person who—
    - (i) contravenes section 40(1) or a provision of the regulations, or
    - (ii) obstructs, or fails to assist in, the exercise of a function conferred by the regulations; 25
  - (g) make provision for the revocation of a person's licence, authorisation or other approval required by or under any enactment for the transport of live animals, where the person—
    - (i) contravenes section 40(1) or a provision of the regulations, or
    - (ii) obstructs, or fails to assist in, the exercise of a function conferred by the regulations; 30
  - (h) create a criminal offence in relation to—
    - (i) the contravention of a provision of the regulations, or
    - (ii) obstructing, or failing to assist in, the exercise of a function conferred by the regulations; 35
  - (i) create a right of appeal;
  - (j) apply, or make provision corresponding to, any provision of, or which may be made under, the Animal Health Act 1981 relating to the execution or enforcement of that Act, with or without modifications; 40
  - (k) apply, or make provision corresponding to, any provision that may be made under section 12 of the Animal Welfare Act 2006 or section



- 26 of the Animal Health and Welfare (Scotland) Act 2006 relating to the enforcement of provision made under the section concerned, with or without modifications;
- (l) amend or revoke any retained direct EU legislation.
- (4) For the purposes of this section, “civil sanction” means a sanction of a kind for which provision may be made under Part 3 of the Regulatory Enforcement and Sanctions Act 2008 (fixed monetary penalties, discretionary requirements, stop notices and enforcement undertakings). 5
- (5) Regulations under subsection (1) may include provision for the imposition of a civil sanction whether or not— 10
- (a) the conduct in respect of which the sanction is imposed constitutes an offence,
- (b) the person imposing it is a regulator for the purposes of Part 3 of the Regulatory Enforcement and Sanctions Act 2008, or
- (c) the appropriate national authority may make provision for the imposition of sanctions under that Part. 15
- (6) Where regulations under subsection (1) contain provision creating a criminal offence, the provision must have the effect that—
- (a) the offence is triable summarily only, and
- (b) the offence is punishable only with a fine. 20
- (7) Regulations under subsection (1) may only confer a power of entry to a private dwelling without the consent of the occupier, or with the use of reasonable force, on—
- (a) in England and Wales, the authority of a warrant issued by a justice of the peace, or
- (b) in Scotland, the authority of a warrant issued by a sheriff, summary sheriff or justice of the peace. 25
- (8) In this section “specified” means specified or described in regulations made under subsection (1).

*Animal welfare and retained EU law* 30

## **42 Powers to amend or revoke retained EU law**

- (1) In section 12 of the Animal Welfare Act 2006 (regulations to promote welfare), after subsection (5) insert—
- “(5A) Regulations under subsection (1) may amend or revoke—
- (a) any retained direct EU legislation; 35
- (b) any instrument containing provision made under section 2(2) of the European Communities Act 1972.”

- (2) In Schedule 1 to that Act (regulations under section 13), in paragraph 19 after sub-paragraph (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; 5
- (b) any instrument containing provision made under section 2(2) of the European Communities Act 1972.”
- (3) In section 26 of the Animal Health and Welfare (Scotland) Act 2006 (asp 11) (provision for securing welfare), after subsection (4) insert –
- “(4A) Regulations under subsection (1) may amend or revoke – 10
- (a) any retained direct EU legislation;
- (b) any instrument containing provision made under section 2(2) of the European Communities Act 1972.”
- (4) In section 51 of that Act (regulations under Part 2) after subsection (2) insert –
- “(2A) The consequential provision that may be made (by virtue of subsection 15
- (2)(a)) by regulations under section 27 includes provision amending or revoking –
- (a) any retained direct EU legislation;
- (b) any instrument containing provision made under section 2(2) of the European Communities Act 1972.” 20

### *Taking of pets*

#### **43 Taking of dog without lawful authority etc**

- (1) A person commits an offence if, without lawful authority or reasonable excuse, the person takes or detains a dog in England –
- (a) so as to remove it from the lawful control of any person, or 25
- (b) so as to keep it from the lawful control of a person who is entitled to have lawful control of it.
- (2) No offence is committed if the person taking or detaining the dog is connected with any of the following –
- (a) any person entitled to have lawful control of it; 30
- (b) where it is removed from the lawful control of a person, that person.
- (3) A person who commits an offence under this section is liable –
- (a) on summary conviction, to imprisonment for a term not exceeding the maximum summary term for either-way offences or a fine (or both); 35
- (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or a fine (or both).
- (4) In this section –
- “connected person”: a person is connected with another person if –

- (a) they are married to each other,
- (b) they are civil partners of each other,
- (c) one is the parent of the other, or
- (d) they are siblings (whether of the full blood or the half blood);
- “detaining”: references to a person detaining a dog include the person— 5
  - (a) inducing it to remain with the person or anyone else, or
  - (b) causing it to be detained;
- “maximum summary term for either-way offences”, with reference to imprisonment for an offence, means—
  - (a) if the offence is committed before the time when paragraph 10
    - 24(2) of Schedule 22 to the Sentencing Act 2020 comes into force, 6 months;
  - (b) if the offence is committed after that time, 12 months;
- “taking”: references to a person taking a dog include the person—
  - (a) causing or inducing it to accompany the person or anyone else, 15
    - or
  - (b) causing it to be taken.

#### 44 Power to extend section 43

- (1) The Secretary of State may by regulations amend section 43 so that it applies not only to dogs but also to one or more other species of animal. 20
- (2) The power under subsection (1) may be exercised in respect of a species only if the Secretary of State considers—
  - (a) that animals of that species are commonly kept as pets, and
  - (b) that there is evidence that—
    - (i) animals of that species are capable of forming bonds with 25
      - people who keep them, and
    - (ii) removing an animal of that species from a person with whom it has formed a bond may adversely affect its wellbeing.
- (3) Before making regulations under this section the Secretary of State must consult such persons as the Secretary of State considers appropriate. 30

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

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

- (1) Article 5 of Regulation (EU) No 576/2013 of the European Parliament and of the Council of 12 June 2013 on the non-commercial movement of pet animals and repealing Regulation (EC) No 998/2003 is amended in accordance with 35
  - subsections (2) to (6).

- (2) Before paragraph 1 insert—
- “A1     The maximum number of pet animals of the species listed in Part A of Annex I which may enter Great Britain in a motor vehicle during a single non-commercial movement must not exceed five.”
- (3) In paragraph 1— 5
- (a) at the beginning insert “In a case other than one to which paragraph A1 applies”;
- (b) for “five” substitute “three”.
- (4) In paragraph 2— 10
- (a) for “paragraph 1” substitute “paragraphs A1 and 1”;
- (b) for “five” substitute “the numbers mentioned there”.
- (5) In paragraph 4, for “paragraph 1” substitute “paragraph A1 or 1”.
- (6) At the end insert—
- “7     In this Article “motor vehicle” means a mechanically propelled vehicle intended or adapted for use on roads.” 15
- (7) In regulation 3 of the Trade in Animals and Related Products Regulations 2011 (S.I. 2011/1197), in paragraph 1(b)—
- (a) at the end of sub-paragraph (i) for “or” substitute “and”;
- (b) for sub-paragraph (ii) substitute—
- “(ii) Article 5(4) of the Pets Regulation does not apply.” 20
- (8) In regulation 3 of the Trade in Animals and Related Products (Scotland) Regulations 2012 (S.S.I. 2012/177), in paragraph 1(b)—
- (a) at the end of sub-paragraph (i) for “or” substitute “and”;
- (b) for sub-paragraph (ii) substitute— 25
- “(ii) Article 5(4) of the Pets Regulation does not apply.”
- (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— 30
- (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— 35
- (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.”

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

- (1) An appropriate national authority may by regulations make provision about the importation of relevant animals into Great Britain, for the purpose of promoting the welfare of relevant animals so imported. 5
- (2) The regulations may, in particular, prohibit or restrict the importation of a relevant animal which—
  - (a) is below a specified age, 10
  - (b) has been mutilated, or
  - (c) is more than a specified number of days pregnant.
- (3) 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, 15
  - (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.
- (4) Regulations under subsection (1) may make provision about enforcement. 20
- (5) An appropriate national authority may by regulations make provision about relevant animals that are seized and detained by virtue of having been unlawfully imported, including in particular provision enabling ownership of a relevant animal to be transferred in specified circumstances.
- (6) An appropriate national authority may by regulations make provision enabling monetary penalties to be imposed, in cases involving the contravention of any enactment (except regulations under subsection (1)) that—
  - (a) relates to animal welfare or animal health, and
  - (b) is concerned with the importation of relevant animals. 25
- (7) Regulations under this section may (amongst other things)—
  - (a) confer a function (including a function involving the exercise of a discretion) on a specified person; 30
  - (b) make provision about the keeping of records or the provision of information;
  - (c) confer a power of entry (whether or not on the authority of a warrant); 35
  - (d) confer a power of inspection, search, seizure or detention (whether or not on the authority of a warrant);
  - (e) authorise, or make provision for the authorisation of, the use of reasonable force in connection with a power mentioned in paragraph (c) or (d); 40

- (f) confer a power to impose monetary penalties;
  - (g) make provision for the revocation of a person’s licence, authorisation or other approval required by or under any enactment for the importation of relevant animals, where –
    - (i) the person contravenes a provision of the regulations, or 5
    - (ii) the person obstructs, or fails to assist in, the exercise of a function conferred by the regulations;
  - (h) create a criminal offence;
  - (i) create a right of appeal.
- (8) Where the regulations contain provision creating a criminal offence, the provision must have the effect that – 10
- (a) the offence is –
    - (i) triable summarily only, or
    - (ii) triable summarily or on indictment;
  - (b) the offence is punishable only – 15
    - (i) with a fine, or
    - (ii) with a term of imprisonment or a fine (or both);
  - (c) any term of imprisonment with which the offence is punishable on summary conviction does not exceed –
    - (i) in England and Wales, the relevant maximum term; 20
    - (ii) in Scotland, 12 months;
  - (d) any term of imprisonment with which the offence is punishable on conviction on indictment does not exceed 5 years.
- (9) Regulations under this section may only confer a power of entry to a private dwelling without the consent of the occupier, or with the use of reasonable force, on – 25
- (a) in England and Wales, the authority of a warrant issued by a justice of the peace, or
  - (b) in Scotland, the authority of a warrant issued by a sheriff, summary sheriff or justice of the peace. 30
- (10) The provision that may be made by regulations under this section may be made by amending, repealing or revoking any enactment.
- (11) In this section –
- “importation”: a reference to importation includes landing or unloading (and similar references are to be read accordingly); 35
  - “mutilated”: a reference to an animal that has been mutilated is to one that has undergone a procedure which involves interference with the sensitive tissues or bone structure of the animal, otherwise than for the purpose of its medical treatment;
  - “relevant animal” means a dog, cat or ferret; 40
  - “relevant maximum term” means –
    - (a) in relation to an offence that is triable only summarily –

- (i) where the offence is committed before the coming into force of section 281 of the Criminal Justice Act 2003, 6 months;
  - (ii) where the offence is committed after that time, 51 weeks; 5
- (b) in relation to an offence that is triable summarily or on indictment—
  - (i) where the offence is committed before the coming into force of paragraph 24(2) of Schedule 22 to the Sentencing Act 2020, 6 months; 10
  - (ii) where the offence is committed after that time, 12 months;
- “specified” means specified or described in regulations made under this section;
- “unlawfully imported”: a reference to an animal that is unlawfully imported is to one imported in contravention of any enactment relating to animal welfare or animal health. 15

### *Zoos*

## **47 Zoos**

- (1) Schedule 5 amends the Zoo Licensing Act 1981 so as to— 20
  - (a) amend the definition of “zoo” for the purposes of that Act;
  - (b) provide that “local authority” in that Act includes the Council of the Isles of Scilly;
  - (c) repeal section 1A (conservation measures), amend section 9 (standards) so as to provide that standards relating to conservation may be specified, and make consequential changes to the Act; 25
  - (d) provide that the list under section 8 (inspectors) may contain a third part, comprising veterinary inspectors with a specialism in any species of animal that is kept in zoos;
  - (e) provide for appeals under the Act relating to matters in England to be made to the First-tier Tribunal rather than a magistrates’ court; 30
  - (f) increase the penalties for certain offences.
- (2) In section 7(4) of the Dangerous Wild Animals Act 1976, in the definition of “local authority”, for “or the Common Council of the City of London” substitute “, the Common Council of the City of London or the Council of the Isles of Scilly”. 35

### *Miscellaneous and general*

## **48 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.”

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#### 49 Meaning of “appropriate national authority” and “enactment”

- (1) This section applies for the purposes of this Part.
- (2) “Appropriate national authority”, 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.
- (3) But the Secretary of State may make regulations under sections 41 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.
- (4) “Enactment” means any provision made by or under –
  - (a) an Act of Parliament;
  - (b) an Act of the Scottish Parliament;
  - (c) an Act or Measure of Senedd Cymru;
  - (d) retained direct EU legislation.

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### PART 4

#### GENERAL

#### 50 Power to make consequential provision

- (1) The Secretary of State may by regulations make provision that is consequential on any provision of this Act.
- (2) The Scottish Ministers may by regulations make provision that is consequential on any provision of Part 3 as it extends to Scotland.

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- (3) 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.
- (4) But—
  - (a) provision may be made under subsection (2) only if it would be within the legislative competence of the Scottish Parliament if contained in an Act of that Parliament; 5
  - (b) provision may be made under subsection (3) only if it would be within the legislative competence of Senedd Cymru if contained in an Act of the Senedd.
- (5) Regulations under this section may amend, repeal or revoke provision made by or under primary legislation or retained direct EU legislation passed or made before the end of the session in which this Act is passed. 10
- (6) In this section “primary legislation” means—
  - (a) an Act of Parliament,
  - (b) an Act of the Scottish Parliament, or 15
  - (c) an Act or Measure of Senedd Cymru.

## **51 Concurrent functions in Wales**

- (1) Schedule 7B to the Government of Wales Act 2006 (general restrictions on legislative competence of Senedd Cymru) is amended as follows.
- (2) In paragraph 9(8)(b) (exceptions to restrictions relating to reserved authorities)— 20
  - (a) omit the “or” at the end of paragraph (vi);
  - (b) at the end of paragraph (vii) insert “; or
  - (viii) the Animal Welfare (Kept Animals) Act 2022.”
- (3) In paragraph 11(6)(b) (exceptions to restrictions relating to Ministers of the Crown)— 25
  - (a) omit the “or” at the end of paragraph (viii);
  - (b) at the end of paragraph (ix) insert “; or
  - (x) the Animal Welfare (Kept Animals) Act 2022.”

## **52 Regulations** 30

- (1) This section applies to regulations under any provision of this Act except section 53.
- (2) A power to make regulations includes power to make—
  - (a) different provision for different purposes;
  - (b) different provision for different areas; 35
  - (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
- (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, 10
  - (d) regulations under Part 3 other than regulations made by virtue of section 46(3)(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. 15
- (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) – 20
- (a) regulations under Part 3 other than regulations made by virtue of section 46(3)(c);
  - (b) regulations under section 50 that amend, repeal or revoke provision made by primary legislation or retained direct principal EU legislation. 25
- (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) – 30
- (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(3)(c), or
  - (d) regulations under section 50 that amend, repeal or revoke provision made by primary legislation or retained direct principal EU legislation, 35
- 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. 40
- (11) In this section “primary legislation” has the meaning given by section 50.

## 53 Commencement

- (1) 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. 5
- (2) Part 2 comes into force on such day as the Secretary of State may by regulations appoint.
- (3) In Part 3—
  - (a) section 40 comes into force on such day as the appropriate national authority may by regulations appoint; 10
  - (b) sections 41, 42, 46 and 49 come into force at the end of the period of two months beginning with the day on which this Act is passed;
  - (c) sections 43 and 44 come into force on such day as the Secretary of State may by regulations appoint; 15
  - (d) section 48 comes into force on such day as the appropriate national authority may by regulations appoint;
  - (e) section 45 comes into force at the end of the period of six months beginning with the day on which this Act is passed;
  - (f) section 47 and Schedule 5 come into force as follows— 20
    - (i) paragraphs 4 to 14 and 17 of Schedule 5, and section 47(1) so far as applying for the purposes of those paragraphs, come into force on such day as the appropriate national authority may by regulations appoint;
    - (ii) subject to that, section 47 and Schedule 5 come into force at the end of the period of two months beginning with the day on which this Act is passed. 25
- (4) In subsection (3) “the appropriate national authority” means—
  - (a) in relation to England, the Secretary of State;
  - (b) in relation to Scotland, the Scottish Ministers; 30
  - (c) in relation to Wales, the Welsh Ministers.
- (5) This Part (except section 51) comes into force on the day on which this Act is passed; section 51 comes into force at the end of the period of two months beginning with that day.
- (6) The Secretary of State may by regulations make transitional or saving provision in connection with the coming into force of any provision of this Act. 35
- (7) The Scottish Ministers may by regulations make transitional or saving provision in connection with the coming into force of any provision of Part 3 in Scotland.
- (8) 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. 40

- (9) Regulations under this section may make different provision for different purposes.
- (10) Regulations under this section made by the Secretary of State or the Welsh Ministers are to be made by statutory instrument.
- (11) For regulations under this section made by the Scottish Ministers, see section 27 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10) (Scottish statutory instruments). 5

## **54 Extent**

- (1) Parts 1 and 2 extend to England and Wales only.
- (2) Subject to subsection (3), Part 3 extends to England and Wales and Scotland. 10
- (3) In Part 3—
  - (a) section 40(8)(b) extends to Scotland only;
  - (b) section 42(1) extends to England and Wales only;
  - (c) section 42(2) extends to Scotland only;
  - (d) sections 43 and 44 extend to England and Wales only; 15
  - (e) section 48 extends to England and Wales only;
  - (f) paragraph 17 of Schedule 5, and section 47(1) so far as applying for the purposes of that paragraph, extend to England and Wales only.
- (4) Subject to subsection (5), this Part extends to England and Wales and Scotland.
- (5) The amendments and repeals made by section 51 have the same extent as the enactments to which they relate. 20

## **55 Short title**

This Act may be cited as the Animal Welfare (Kept Animals) Act 2022.

## SCHEDULES

### SCHEDULE 1

Section 1(4)

#### TRANSITIONAL PROVISION RELATING TO PRIMATES

##### *Introductory*

- 1 (1) The prohibition in section 1(1) does not apply where—5
  - (a) a primate is kept by a person immediately before a date specified in regulations made by the appropriate national authority, and
  - (b) the primate is registered with a local authority in accordance with the provisions of this Schedule.
- (2) The date specified under sub-paragraph (1)(a) must be, or be before, the date on which section 1(1) comes into force. 10
- 2 (1) In this Schedule, the “registration requirements” are requirements on a person keeping a primate registered under this Schedule to secure that, during the period when it is so registered—15
  - (a) the basic welfare needs of the primate are met,
  - (b) the primate is registered with a veterinary practice,
  - (c) the primate receives a health check from a veterinary surgeon, and
  - (d) the primate is microchipped in accordance with regulations made by the appropriate national authority for the purposes of this paragraph. 20
- (2) In this Schedule, the requirement referred to in sub-paragraph (1)(a) is called the “welfare requirement”.

##### *Applications for registration*

- 3 (1) An individual who meets the application condition in relation to a primate may, within a period specified in regulations made by the appropriate national authority, apply to the local authority in whose area the premises in which the primate is kept are situated to register the primate under this Schedule. 25
- (2) “The application condition”, in relation to a primate, means—30
  - (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. 35
- (3) An application may not be made by an individual—
  - (a) who is under the age of 18, or

- (b) who is disqualified from keeping primates.
- (4) The application may relate to more than one primate.
- (5) The application must specify such information, and be in such form, as the local authority may reasonably require.
- (6) Section 4(6) (meaning of “disqualified from keeping primates”) applies for the purposes of this paragraph. 5
- 4 (1) Before determining whether to grant an application under paragraph 3, the local authority to which it is made must arrange for a veterinary surgeon to inspect the premises where the primate is kept to determine whether the welfare requirement will be met. 10
- (2) If the local authority is satisfied that the welfare requirement and the other registration requirements will be met, the local authority must grant the application and—
  - (a) register the primate, and
  - (b) register the applicant as the keeper of the primate. 15
- (3) Subject to that, the local authority must refuse the application.
- (4) See also Schedule 3 (representations and appeals).

#### *Inspection and fees*

- 5 (1) A local authority that has registered a primate under this Schedule may, while the primate is registered, arrange for a suitable person to inspect the premises where the primate is kept to determine whether the welfare requirement is being met. 20
- (2) An inspection under this paragraph may be carried out at any reasonable hour.
- 6 A local authority may— 25
  - (a) charge fees in respect of an application under paragraph 3;
  - (b) charge fees in respect of any inspection which it must or may arrange under this Schedule.

#### *Enforcement of registration requirements*

- 7 (1) A person who is registered as the keeper of a primate under this Schedule (“the registered keeper”) must meet the registration requirements in relation to the primate. 30
- (2) A registered keeper who contravenes sub-paragraph (1) commits an offence.
- (3) A registered keeper who commits an offence under this paragraph is liable on summary conviction to a fine not exceeding level 4 on the standard scale. 35
- (4) See also Schedule 2 (fixed penalty notices).
- 8 (1) If a local authority that has registered a primate under this Schedule considers that the registered keeper is failing to meet the welfare

requirement, the authority may serve on the keeper a notice under this paragraph (a “registration rectification notice”).

- (2) A registration rectification notice must—
  - (a) state that the local authority considers that the registered keeper is failing to meet the registration requirement, and why, 5
  - (b) specify the steps that the authority considers the keeper needs to take to comply with the registration requirement,
  - (c) specify a period for the taking of those steps (the “rectification period”), and
  - (d) explain the effect of sub-paragraph (3). 10
- (3) Where a registered keeper is given a registration rectification notice—
  - (a) no proceedings for an offence under paragraph 7 may be instituted, and no fixed penalty notice under Schedule 2 relating to such an offence may be given, before the end of the rectification period in respect of the non-compliance which gave rise to the notice or any continuation of it, and 15
  - (b) if the steps specified in the notice are taken before the end of the rectification period, no such proceedings or notice may be instituted or given in respect of the non-compliance which gave rise to the notice or any continuation of it prior to the taking of the steps. 20
- (4) The rectification period may not—
  - (a) be longer than a year, or
  - (b) extend beyond the time when this Schedule ceases to have effect (see paragraph 12).
- (5) Subject to that, the local authority may extend the rectification period, and may do so more than once. 25
- (6) See also Schedule 3 (representations and appeals).

### *Transfer of primate*

- 9 Where the registered keeper of a primate transfers it to another person, the keeper must within the period of 28 days beginning with the date of transfer inform the local authority by which the primate is registered— 30
  - (a) that the primate has been transferred;
  - (b) of the name and address of the new keeper;
  - (c) whether the primate is to be kept by the new keeper under a primate licence, a licence under the Zoo Licensing Act 1981 or a licence under section 2C of the Animals (Scientific Procedures) Act 1986. 35

### *Death of primate*

- 10 Where a primate registered by a local authority under this Schedule dies, the registered keeper must inform the local authority of that fact within the period of 28 days beginning with the date of death. 40

*Death of registered keeper*

- 11 (1) This paragraph applies where the registered keeper of a primate registered by a local authority under this Schedule dies.
- (2) The personal representatives are deemed to be the registered keepers of the primate. 5
- (3) If the personal representatives do not notify the local authority of the death within the period of 28 days beginning with the date of death, the deemed registration under sub-paragraph (2) has effect for that period only.
- (4) If the personal representatives do notify the local authority of the death within that 28-day period – 10
- (a) the deemed registration under sub-paragraph (2) has effect for the period of three months beginning with the date of death, and
- (b) the local authority may on application by the personal representatives extend that period for a further period of up to three months if satisfied that it is appropriate to do so in all the 15 circumstances.
- (5) Before the time when a deemed registration under sub-paragraph (2) would otherwise cease to have effect by virtue of sub-paragraph (4), one of the personal representatives may apply to the local authority to be the registered keeper of the primate. 20
- (6) If on an application under sub-paragraph (5) the local authority is satisfied that it is appropriate to do so in all the circumstances, the local authority may grant the application and register the applicant as the registered keeper of the primate.

*Expiry* 25

- 12 This Schedule ceases to have effect at the end of the period of one year beginning with the date on which section 1(1) comes into force.

SCHEDULE 2

Section 1(6)

OFFENCES RELATING TO PRIMATES: FIXED PENALTY NOTICES

*Power to issue fixed penalty notices* 30

- 1 (1) This Schedule applies where a local authority is satisfied, beyond reasonable doubt, that –
- (a) a person has committed an offence under section 1 by keeping a primate in its area;
- (b) a person to whom it has granted a primate licence has committed 35 an offence under section 12;
- (c) a person to whom it has issued a rectification notice has committed an offence under section 13;



- (d) a person has committed an offence under section 17 (selling primates etc) in its area;
  - (e) a person has committed an offence under section 18 (breeding primates) in its area;
  - (f) a person keeping a primate registered by it under Schedule 1 has committed an offence under paragraph 7 of that Schedule. 5
- (2) The local authority may, subject to the following provisions of this Schedule, issue a notice under this Schedule (a “fixed penalty notice”) to the person (“the offender”).

*Fixed penalty notices* 10

- 2 (1) A fixed penalty notice is a notice offering the offender the opportunity to discharge any liability to conviction for the offence referred to in paragraph 1(1) by payment of an amount specified in the notice within the relevant period.
- (2) The amount specified in a fixed penalty notice may not exceed – 15
- (a) in the case of an offence referred to in paragraph 1(1)(a), (d), or (e), £5000, or
  - (b) in the case of an offence referred to in paragraph 1(1)(b), (c) or (f), whichever is the lesser of –
    - (i) £5000, and 20
    - (ii) level 4 on the standard scale.
- (3) The relevant period is the period of 28 days beginning with the date on which the notice is issued.
- 3 A fixed penalty notice must explain –
- (a) that the local authority is satisfied that the offender has committed an offence referred to in paragraph 1(1), and why, 25
  - (b) the effect of the notice (see paragraph 4), and
  - (c) when and how payment may be made.

*Effect of fixed penalty notice*

- 4 Where a fixed penalty notice is issued to a person – 30
- (a) no proceedings may be instituted for the offence referred to in paragraph 1(1) before the end of the relevant period, and
  - (b) the person may not be convicted of the offence if the person pays –
    - (i) the full amount before the end of the relevant period, or
    - (ii) 50% of that amount before the end of the period of 14 days beginning with the date on which the relevant period starts. 35

*Use of proceeds*

- 5 (1) Sums received by local authorities pursuant to fixed penalty notices must be paid into the Consolidated Fund in the case of local authorities in

England, or the Welsh Consolidated Fund in the case of local authorities in Wales.

- (2) But before paying such sums into the Consolidated Fund or Welsh Consolidated Fund a local authority may deduct—
- (a) the costs of investigating the offences to which the fixed penalty notices relate, and
  - (b) the costs of issuing the notices.

### SCHEDULE 3

Section 5(6)

#### DECISIONS RELATING TO PRIMATES: REPRESENTATIONS AND APPEALS

##### *Application of Schedule* 10

- 1 This Schedule applies where a local authority—
- (a) refuses a person's application to grant, renew or vary a primate licence,
  - (b) gives a rectification notice to a person under section 13,
  - (c) revokes or varies a person's primate licence under section 14,
  - (d) refuses a person's application for registration under paragraph 3 of Schedule 1, or
  - (e) gives a registration rectification notice to a person under paragraph 8 of Schedule 1.

##### *Representations* 20

- 2 The local authority must inform the person of their right to make representations under this Schedule.
- 3 The person may, within the period of 28 days beginning with the date of (as the case may be) being informed of the refusal, revocation or variation or being given the notice, make written representations to the local authority.

##### *Reconsideration*

- 4 If the person makes written representations within the period referred to in paragraph 3, the local authority must reconsider what it has done.
- 5 The local authority must notify the person of the outcome.
- 6 If the outcome of the reconsideration is to grant the application (with or without rectification conditions), vary or withdraw the notice or rescind the revocation or variation, the local authority must do that.
- 7 If the outcome is to continue to refuse the application, to proceed with the notice (with or without variation) or to proceed with the revocation or variation, the local authority must also notify the person of their right to appeal.

## Appeals

- 8 (1) In a case referred to in paragraph 7, the person may appeal to the appropriate tribunal or court within the period of 28 days beginning with the date on which they are notified under that paragraph.
- (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.
- 9 On an appeal the appropriate tribunal or court may—
- (a) uphold the decision of the local authority, or
  - (b) require the local authority (as the case may be) to—
    - (i) grant, vary or renew the primate licence, subject to such rectification conditions as the local authority considers appropriate,
    - (ii) withdraw or vary the notice, or
    - (iii) rescind the revocation or variation.

## Suspension of local authority decision

- 10 (1) Until the time specified in sub-paragraph (2)—
- (a) a primate licence for which an application for renewal has been made does not expire,
  - (b) a rectification notice or registration rectification notice does not have effect, and
  - (c) the revocation or variation of a licence under section 14 does not have effect.
- (2) The time is whichever is the later of—
- (a) the end of the period for making representations under paragraph 3;
  - (b) if representations are made during that period, the end of the period for making an appeal under paragraph 8;
  - (c) if an appeal is made within that period, the time when the appeal is finally determined or withdrawn.

## SCHEDULE 4

Section 19

### POWERS OF ENTRY RELATING TO PRIMATES

## Inspectors

- 1 In this Schedule, “inspector” means a person authorised by a local authority for the purposes of this Schedule.

### *Warrants*

- 2      If an inspector has reasonable grounds for suspecting that an offence under section 1, 12, 17 or 18 is being or has been committed on any premises, the inspector may apply to a justice of the peace for a warrant authorising the inspector to enter the premises. 5
- 3      (1) A justice of the peace may, on an application under paragraph 2, issue a warrant if the justice is satisfied on sworn information in writing that—
- (a) there are reasonable grounds for suspecting an offence under section 1, 12, 17 or 18 is being or has been committed on the premises, and
- (b) any of the conditions in sub-paragraph (2) are satisfied. 10
- (2) The conditions are that—
- (a) entry to the premises is unlikely to be granted unless a warrant is provided and that notice of intention to apply for a warrant has been given to the occupier,
- (b) an application for admission to the premises or the giving of notice of intention to apply for a warrant might frustrate the object of entry, or 15
- (c) the premises are unoccupied.

### *Entry to premises*

- 4      An inspector exercising a power of entry must do so at a reasonable hour unless it appears to the inspector that entry at a reasonable hour would frustrate the purpose of entry. 20
- 5      (1) Before exercising a power of entry an inspector must, if requested to do so by a person on the premises—
- (a) provide evidence of the inspector's identity, and 25
- (b) outline the purpose for which the power is exercised.
- (2) Where an inspector enters premises under a warrant issued under this Schedule, the inspector must also—
- (a) produce a copy of the warrant, and
- (b) supply the occupier (if present), or any other person appearing to the inspector to be in charge of the premises, with a copy of the warrant. 30
- (3) If neither the occupier nor any other person appearing to the inspector to be in charge of the premises is present, the inspector must leave a copy of the warrant in a prominent place on the premises. 35
- 6      An inspector exercising a power of entry may—
- (a) if necessary, use reasonable force to enter the premises;
- (b) take up to two other persons on to the premises;
- (c) take such equipment and materials on to the premises as appear to the inspector to be appropriate. 40

*Powers on entry*

- 7 An inspector exercising a power of entry may –
- (a) search the premises;
  - (b) examine, measure or test anything, including an animal, that is found on the premises; 5
  - (c) question any person on the premises;
  - (d) require any person on the premises to give the inspector such assistance as the inspector may reasonably require;
  - (e) take a sample (including a sample from an animal);
  - (f) take a photograph or video recording of anything, including an animal, that is found on the premises; 10
  - (g) require any person on the premises to produce any document or record (in whatever form it is held) that is in the person’s possession or control;
  - (h) take copies of or extracts from any document or record found on the premises (in whatever form it is held); 15
  - (i) require information which is stored in an electronic form and is accessible from the premises to be produced in a form in which it can be taken away and in which it is visible and legible (or from which it can readily be produced in a visible and legible form); 20
  - (j) seize anything, except an animal, that is found on the premises and which the inspector reasonably believes to be evidence of the commission of an offence under section 1, 12, 17 or 18.
- 8 A person taken on to the premises under paragraph 6(b) may exercise any power conferred on an inspector by paragraph 7 if the person is in the company and under the supervision of an inspector exercising a power of entry. 25
- 9 (1) Anything seized under paragraph 7(j) may be retained for so long as is necessary in all the circumstances.
- (2) A person who seizes anything under paragraph 7(j) must, if requested to do so by a person who occupied the premises at the time of the seizure or who had possession or control of the thing immediately before it was seized, provide a record of its seizure. 30
- (3) Paragraph 7(j) does not include power to seize anything in respect of which a claim to legal professional privilege could be maintained in legal proceedings. 35

*Obstruction*

- 10 (1) A person commits an offence if –
- (a) the person fails without reasonable excuse to comply with a requirement for assistance reasonably made under paragraph 7(d), or 40
  - (b) the person intentionally obstructs another person in the exercise of a function under this Schedule.

- (2) A person who commits an offence under sub-paragraph (1)(a) or (b) is liable on summary conviction to a fine.

*Liability*

- 11 (1) An inspector is not 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. 5
- (2) Sub-paragraph (1) applies to any person taken on to premises by an inspector under paragraph 6(b) as it applies to an inspector if the person is in the company and under the supervision of an inspector exercising functions under this Schedule. 10

## SCHEDULE 5

Section 47

## ZOOS

*Introduction*

- 1 The Zoo Licensing Act 1981 is amended as follows. 15

*Meaning of "zoo" for purposes of Act*

- 2 (1) In section 1(2) omit "otherwise than for purposes of a circus (as so defined) in England and".
- (2) In section 21(1) omit the definition of "circus".

*Meaning of "local authority" for purposes of Act* 20

- 3 In section 1(3)(a) (local authorities in England for purposes of Act) –
- (a) for "and" substitute ";;";
- (b) at the end insert "and the Council of the Isles of Scilly".

*Conservation measures etc*

- 4 Omit section 1A (conservation measures for zoos). 25
- 5 In section 2(2A) (application for licence) for the words from "conservation measures" to the end substitute "zoo will meet any standards on conservation specified under section 9."
- 6 In section 4 (grant or refusal of licence) –
- (a) in subsection (1A)(a) – 30
- (i) for "the conditions" substitute "any conditions";
- (ii) omit "section 5(2A) and (if applicable)";

- (b) in subsection (2A) for the words from “conservation measures” to the end substitute “zoo will meet the standards specified under section 9.”;
    - (c) in subsection (3) for the words from “the standards” to the end substitute “any condition they propose to attach to the licence under section 5(3) will be met.” 5
- 7 (1) Section 5 (period and conditions of licence) is amended as follows.
  - (2) In subsection (2A) for the words from “conditions” to the end substitute “a condition requiring the zoo to meet the standards specified under section 9.” 10
  - (3) Omit subsection (4).
  - (4) Omit subsection (5A).
- 8 (1) Section 8 (Secretary of State’s list) is amended as follows.
  - (2) In subsection (2) for “the conservation measures referred to in section 1A” substitute “measures to meet any standards on conservation specified under section 9”. 15
  - (3) In subsection (3) for “the conservation measures referred to in section 1A” substitute “measures to meet any standards on conservation specified under section 9”.
- 9 (1) Section 9 (Secretary of State’s standards) is amended as follows. 20
  - (2) The existing provision becomes subsection (1) of that section.
  - (3) In that subsection for “standards with” to the end substitute “—
    - (a) standards with respect to the management of zoos and the animals in them;
    - (b) standards relating to conservation (including education about, and research into, conservation).” 25
  - (4) After that subsection insert —
    - “(2) Different standards may be specified for different descriptions of zoo.”
- 10 (1) Section 9A (procedure relating to certain inspections) is amended as follows. 30
  - (2) In subsection (11) after “section 4(1A)(a)” insert “, and the condition under section 5(2A),”.
  - (3) In subsection (13) omit paragraph (b) (and the “and” immediately before it).
  - (4) In subsection (14) for “conditions requiring the conservation measures referred to in section 1A(f) to be implemented at the zoo” substitute “a condition of the licence”. 35
- 11 In section 10(4)(e) for “conditions of the licence requiring the conservation measures referred to in section 1A(f) to be implemented at the zoo” substitute “a condition of the licence”. 40

- 12 (1) Section 16 (power to alter licences) is amended as follows.
- (2) In subsection (1A)(c) for “any conservation measures referred to in section 1A to be implemented at the zoo” substitute “the zoo to meet the standards specified under section 9”.
- (3) In subsection (3) for “subsections (3A) and (3B)” substitute “subsection (3A)”.
- (4) Omit subsection (3B).
- (5) Omit subsection (4A).
- 13 In section 16A(2)(a) after “met” insert “(and, if that condition is the condition mentioned in section 5(2A), the standard specified under section 9 which they are not satisfied is met)”.
- 14 (1) Section 16B is amended as follows.
- (2) Omit subsection (1).
- (3) In subsection (4)(c) omit “, other than one which requires any conservation measure referred to in section 1A to be implemented at the zoo,”.

*Inspectors*

- 15 (1) Section 8 (Secretary of State’s list) is amended as follows.
- (2) In subsection (1) for the words from “, the first part” to the end substitute “or three parts (in accordance with subsection (1A)), with—
- (a) the first part containing the names of veterinary surgeons and veterinary practitioners within subsection (2), and
- (b) the second part containing the names of persons within subsection (3).”
- (3) After subsection (1) insert—
- “(1A) The list compiled under subsection (1) may contain a third part containing the names of persons each of whom is—
- (a) a veterinary surgeon or veterinary practitioner, and
- (b) a specialist in one or more species of animals which are kept in zoos;
- and, in respect of each person in this part of the list, the name of the species in question.”
- (4) In subsection (4) for “both the first and the second parts” substitute “more than one part”.
- 16 In section 10(4)(a)(ii) (periodical inspections) after “first part” insert “or any third part”.

*Appeals against decisions of local authorities*

- 17 (1) Section 18 (appeals) is amended as follows.
- (2) In subsection (1)—



- (a) in paragraph (b) at the end insert “(other than a condition under section 5(2A))”;
  - (b) for “a magistrates’ court” substitute “the appropriate court or tribunal”.
- (3) In subsection (3) for “a magistrates’ court, the court” substitute “the appropriate court or tribunal, the court or tribunal”. 5
- (4) In subsection (7A) for “the court”, in both places it occurs, substitute “the appropriate court or tribunal”.
- (5) In subsection (10) for “the court”, in both places it occurs, substitute “the appropriate court or tribunal”. 10
- (6) After that subsection insert –
  - “(11) In this section “the appropriate court or tribunal” means –
    - (a) in relation to England, the First-tier Tribunal;
    - (b) in relation to Wales, a magistrates’ court.”
- (7) The amendments made by this paragraph do not apply in relation to an appeal made before the time they come into force. 15

*Increase in penalties for certain offences*

- 18 (1) In section 19(4) (penalties for offences) –
  - (a) for “not exceeding level 4 on the standard scale” substitute “(in Scotland, not exceeding level 5 on the standard scale)”; 20
  - (b) for “level 3 on the standard scale” substitute “a fine not exceeding level 4 on the standard scale”.
- (2) The amendments made by sub-paragraph (1) do not apply in relation to an offence committed before the time they come into force.

# Animal Welfare (Kept Animals) Bill

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[AS INTRODUCED]

A

## B I L L

TO

Make provision about the welfare of certain kept animals that are in, imported into, or exported from Great Britain, and for connected purposes.

*Presented by Secretary George Eustice  
supported by The Prime Minister,  
The Chancellor of the Exchequer, Steve Barclay,  
Secretary Anne-Marie Trevelyan,  
Secretary Alister Jack and Victoria Prentis.*

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Ordered, by The House of Commons, to be  
Printed, 11th May 2022.

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