



## ANIMAL WELFARE BILL 2021

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## ANIMAL WELFARE BILL 2021

A **BILL** to make provision for the Department of Environment, Food and Agriculture to apply to the Island legislation of the European Union and United Kingdom relating to the welfare of companion animals; to make provision for the Department to make regulations to give effect to the applied legislation; to amend the Game Act 1882, the Game (Hares) Act 1971 and the Forestry Act 1984 so as to provide that the Department may grant a competent person a licence to kill or take hares in specified circumstances and for specified purposes; and for connected purposes.

**BE IT ENACTED** by the Queen's Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

### 1 Short title

The short title of this Act is the Animal Welfare Act 2021.

### 2 Commencement

(1) This Act (other than section 1 and this section) comes into operation on such day or days as the Department of Environment, Food and Agriculture may by order appoint.

Tynwald procedure — laying only.

(2) An order under subsection (1) may include such consequential, incidental, supplementary, savings, transitional and transitory provision as the Department of Environment, Food and Agriculture considers necessary or expedient.

### 3 Interpretation

(1) In this Act —

“**applied legislation**” means any UK legislation or secondary legislation applied to the Island by order made under section 4(1);

“**companion animal**” means a kept non-livestock animal that is not living in a wild state;

“**the Department**” means the Department of Environment, Food and Agriculture;

“**non-livestock animal**” means —

- (a) any vertebrate animal that is not livestock within the meaning of section 59 of the *Animal Health Act 1996*; and
- (b) any invertebrate animal prescribed in an Order made by the Department,  
Tynwald procedure — approval required;

“**UK legislation**” means —

- (a) the Animal Welfare Act 2006 (of Parliament)<sup>1</sup>;
- (b) the Animal Health and Welfare (Scotland) Act 2006<sup>2</sup>;
- (c) the Welfare of Animals Act (Northern Ireland) 2011<sup>3</sup>; and
- (d) the Animal Welfare (Sentencing) Bill 2019-21 (of Parliament)<sup>4</sup> and if passed, the resulting Act of Parliament; and

“**secondary legislation**” means any regulations, order, scheme, byelaws, code of practice, public document declared under the UK legislation to be a statutory document or other public document of a legislative character made under the UK legislation, provided that the power under which the relevant document is made is applied legislation.

- (2) The Council of Ministers may by order amend subsection (1) so as to amend the definition of UK legislation.

Tynwald procedure — approval required.

- (3) For the purposes of the definition of “companion animal” in subsection (1) —

- (a) despite the definition of livestock in the *Animal Health Act 1996*, a horse may also be a companion animal; and
- (b) a person is deemed to be keeping an animal if they providing the animal with food and shelter on a regular basis and ‘kept’ is to be construed accordingly.

- (4) In the definition of “secondary legislation” in subsection (1), a public document is of legislative character only if it —

- (a) unilaterally affects a right or liability of someone other than the body making it; and
- (b) is not of an administrative or judicial character.

- (5) Nothing in this Act applies to an animal while it is in its foetal or embryonic form.

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<sup>1</sup> P2006/45

<sup>2</sup> S2006/11

<sup>3</sup> NI2016/16

<sup>4</sup> HC 2019-21

- (6) In this section, “vertebrate” means any animal of the Sub-phylum Vertebrata of the Phylum Chordata and “invertebrate” means any animal not of that Sub-phylum.

#### **4 Application of legislation relating to the welfare of companion animals**

- (1) The Department may, by order, apply to the Island any provision of UK legislation or secondary legislation, which relates to the welfare of companion animals, to such extent and subject to such exceptions, modifications or adaptations, as may be specified in the order.  
Tynwald procedure – approval required.
- (2) An order made under subsection (1) must –
- (a) specify the exceptions, adaptations and modifications subject to which the applied legislation applies to the Island;
  - (b) have annexed to it a text of the applied legislation, incorporating the exceptions, adaptations and modifications specified in the order; and
  - (c) include provision repealing or amending any provision of an enactment (other than this Act) which appears to the Department to be inconsistent with, or to be unnecessary or to require modification in consequence of the order applying or any regulations implementing the applied legislation.
- (3) An order made under subsection (1) may provide that a reference in them to any secondary legislation is to be construed as a reference to the secondary legislation as amended from time to time;
- (4) Subsections (5) and (6) apply if an order made under subsection (1) provide that a reference in the regulations to any secondary legislation is to be construed as a reference to the secondary legislation as amended from time to time.
- (5) To avoid doubt, the text to be annexed under subsection (2)(b) is the text of the applied legislation at the time the order is made.
- (6) Despite subsection (5), the Department –
- (a) may update the text annexed under subsection (2)(b) to reflect any amendment made to the applied legislation after the making of the order; and
  - (b) must update the text if a person requests an updated text of the applied legislation.
- (7) Before making an order under subsection (1), the Department must –
- (a) in the case of an order applying a provision of UK legislation, conduct a public consultation; and

- (b) in the case of an order applying a provision of secondary legislation, consult such organisations as it considers represent interests which will be affected by the order.

## **5 Implementation by regulations of legislation relating to the welfare of companion animals**

- (1) The Department may make such regulations as appear to it to be necessary or expedient to implement the applied legislation and may make such provision as it considers appropriate to deal with any matter arising out of or related to any such implementation.

Tynwald procedure – approval required.

- (2) Before making regulations under subsection (1), the Department must consult such organisations as it considers represent interests which will be affected by the regulations.
- (3) Without limiting subsection (1), regulations may –
  - (a) provide for their contravention to be an offence and for a maximum penalty (summary) –
    - (i) unless subparagraph (ii) or (iii) applies, of a fine not exceeding level 5 on the standard scale;
    - (ii) if the offence relates to more than 10 animals, of a fine not exceeding level 3 on the standard scale for each animal; or
    - (iii) if the offence relates to a carcasses, fodder, litter, excrement or other things (exclusive of animals), of a fine not exceeding level 3 on the standard scale in respect of every 500 kilograms in weight thereof after the first 500 kilograms in addition to the first fine not exceeding level 5 on the standard scale;
  - (b) make supplementary, incidental, consequential, transitional, transitory or saving provision;
  - (c) permit a person to exercise a discretion in respect of any matters specified in the regulations; and
  - (d) require compliance with standards or the adoption of practices recommended or specified from time to time (whether before or after the making of the regulations) by a specified person or body.

## **6 Amendment of legislation for the protection of mountain hares**

- (1) In the *Game Act 1882* –
  - (a) in section 2 (definitions) –
    - (i) in the definition of “game”, omit “brown or common”; and

- (ii) in the definition of “vermin” for “, wild cats and blue or mountain hares but shall not include brown or common hares”, substitute ~~“~~ and wild cats ~~”~~;
- (b) in section 9(2)(d) (hours and times within which it shall not be lawful to kill game) for “any brown or common hares”, substitute ~~“~~ any hare ~~”~~;
- (c) in section 11 (unlawful to destroy eggs or trace hare in snow), wherever occurring, for “any brown or common hare”, substitute ~~“~~ any hare ~~”~~; and
- (d) for section 30 (game and game-dealing licences to be issued by the Department), substitute –

**~~“~~30 Game and game-dealing licences to be issued by the Department**

- (1) Game licences and game-dealing licences shall be issued by the Department.
- (2) The Department may issue a game licence for the killing or taking of hares only where it considers that to do so is necessary for the protection of trees and tree plants (within the meaning of the *Forestry Act 1984*).
- (3) To give effect to subsection (1), the Department may make such regulations as it considers necessary or expedient in relation to game licences and game-dealing licences.  
Tynwald procedure – approval required.
- (4) Without limiting subsection (3), regulations may make provision for –
  - (a) the form and content of an application to the Department for a game licence or game-dealing licence;
  - (b) the imposition of an application fee;
  - (c) the procedure for the determination of an application;
  - (d) the duration of a licence issued under this Act;
  - (e) the form and content of a licence; and
  - (f) the maintenance by the Department and inspection of a register of licences issued under this Act. ~~”~~; and
- (d) omit sections 34 (duration of licence), 35 (inspection of registers), 36 (licence duty) and Schedule 2 (form of licences).
- (2) In the *Game (Hares) Act 1971* –
  - (a) for sections 1 (blue or mountain hares to cease to be ‘game’) and 2 (power of the Department of Environment, Food and Agriculture to remove protection from brown or common hares), substitute –

**11 Hares classified as game**

For the purposes of the Game Acts 1882 to 1958, hares are classified as game. 12; and

- (b) in section 4 omit (amendments of enactments, etc ) “, and may be further amended by any order made under section 2 of this Act for the purpose of conforming to that order”.
- (3) In section 3 of the *Forestry Act 1984* (prevention of damage), on each occasion, after “rabbits”, insert 13, hares 12.

Consultation Draft