

ANIMAL WELFARE BILL 2021

Explanatory Memorandum

1. This Bill is promoted by Mr Boot M.H.K.
2. *Clauses 1 and 2* provide for the short title and commencement of the resulting Act.
3. *Clause 3* defines the terms which apply throughout the Bill, (including “applied legislation”, “companion animal”, “non-livestock animal”, “UK legislation” and “UK secondary legislation”. The definitions may be amended by the Council of Ministers, by order, subject to Tynwald approval.
4. *Clause 4* empowers the Department of Environment, Food and Agriculture (“the Department”), by order, to apply to the Island specified UK legislation and any secondary legislation made under UK legislation which has been applied to the Island, which relates to the welfare of companion animals. The application of such legislation may be subject to appropriate exceptions, adaptations, or modifications.

Before making an order under section 4, the Department must conduct a public consultation where UK legislation is to be applied or, in the case of UK secondary legislation, must consult with the organisations the Department considers represent interests likely to be affected by the order. An order made under section 4 requires Tynwald approval.

Clause 4 specifies the matters for which an order made under section 4 must provide – (i) the specification of any exceptions, adaptations or modifications subject to which the UK legislation or UK secondary legislation is applied, (ii) the annexation of a copy of the UK legislation or UK secondary legislation showing the exceptions, adaptations and modifications and (iii) the repeal or amendment of any provision of any enactment which is inconsistent with or is unnecessary or which requires modification as a result of the applied legislation.

UK secondary legislation may be applied on an ambulatory basis, that is to say any changes to the UK secondary legislation which has been applied to the Island by an order made under section 4, have automatic effect. Clause 4 makes provision in such cases, in relation to updating copies of the annexed text.

5. *Clause 5* empowers the Department to make regulations to implement the applied legislation and to deal with any matters arising from the implementation of the applied legislation.

Before making such regulations under section 5, the Department must consult the organisations it considers represent interests likely to be affected by the regulations. Regulations made under section 5 require Tynwald approval.

Clause 5 specifies that regulations made under section 5 may provide that their contravention is an offence for which there is a maximum penalty, on summary prosecution of 2 years custody and a fine, the level of which depends on the offence. Clause 5 specifies other matters for which regulations made under section 5 may provide, including the exercise of discretion and a requirement for compliance with standards and recommended practices specified by a body specified in the regulations.

6. The resulting Act is not expected to have any financial or human resource implications.
7. In the opinion of the member moving the Bill its provisions are compatible with the Convention rights within the meaning of the Human Rights Act 2001.



Ellan Vannin

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Index

Section	Page
1 Short title.....	5
2 Commencement.....	5
3 Interpretation.....	5
4 Application of legislation relating to the welfare of companion animals	7
5 Implementation by regulations of applied legislation relating to the welfare of companion animals.....	8



Ellan Vannin

ANIMAL WELFARE BILL 2021

1 **A BILL** to make provision for the Department of Environment, Food and
 2 Agriculture to apply to the Island legislation of the United Kingdom relating to
 3 the welfare of companion animals; to make provision for the Department to make
 4 regulations to give effect to the applied legislation; 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:—

5 **1 Short title**

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

7 **2 Commencement**

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

11 Tynwald procedure — laying only.

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

16 **3 Interpretation**

17 (1) In this Act —

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

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

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

23 “**non-livestock animal**” means —

24 (a) any vertebrate animal that is not livestock within the meaning of
 25 section 59 of the *Animal Health Act 1996*; and

1 (b) any invertebrate animal prescribed in an order made by the
2 Department,

3 Tynwald procedure — approval required;

4 “UK legislation” means —

5 (a) the Animal Welfare Act 2006 (of Parliament)¹;

6 (b) the Animal Health and Welfare (Scotland) Act 2006²;

7 (c) the Welfare of Animals Act (Northern Ireland) 2011³; and

8 (d) the Animal Welfare (Sentencing) Bill 2019-21 (of Parliament)⁴ and
9 if passed, the resulting Act of Parliament; and

10 “UK secondary legislation” means —

11 (a) any regulations, order, scheme, byelaws, code of practice made
12 under; and

13 (b) any document —

14 (i) declared to be a statutory document under; or

15 (ii) of a legislative character made under,

16 the UK legislation, provided that the UK legislation is applied legislation.

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

19 Tynwald procedure — approval required.

20 (3) For the purposes of the definition of “companion animal” in subsection
21 (1) —

22 (a) despite the definition of livestock in the *Animal Health Act 1996*, a
23 horse may also be a companion animal; and

24 (b) a person is deemed to be keeping an animal if they provide the
25 animal with food and shelter on a regular basis and “kept” is to be
26 construed accordingly.

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

29 (a) unilaterally affects a right or liability of someone other than the
30 body making it; and

31 (b) is not of an administrative or judicial character.

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

¹ P2006 c.45

² 2006 asp 11

³ P2011 c.16

⁴ HL Bill 182

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

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

- 5 (1) The Department may, by order, apply to the Island any provision of UK
6 legislation or UK secondary legislation, which relates to the welfare of
7 companion animals, to such extent and subject to such exceptions,
8 adaptations, or modifications, as may be specified in the order.
9 Tynwald procedure – approval required.
- 10 (2) An order made under subsection (1) must –
- 11 (a) specify the exceptions, adaptations and modifications subject to
12 which the applied legislation applies to the Island;
- 13 (b) have annexed to it a text of the applied legislation, incorporating
14 the exceptions, adaptations and modifications specified in the
15 order; and
- 16 (c) include provision repealing or amending any provision of an
17 enactment (other than this Act) which appears to the Department
18 to be –
- 19 (i) inconsistent with; or
- 20 (ii) unnecessary or to require modification,
21 in consequence of the order applying or any regulations
22 implementing the applied legislation.
- 23 (3) An order made under subsection (1) may provide that a reference in the
24 order to any UK secondary legislation is to be construed as a reference to
25 the UK secondary legislation as amended from time to time;
- 26 (4) Subsections (5) and (6) apply if an order made under subsection (1)
27 provides that a reference in the order to any UK secondary legislation is to
28 be construed as a reference to the UK secondary legislation as amended
29 from time to time.
- 30 (5) To avoid doubt, the text to be annexed under subsection (2)(b) is the text
31 of the applied legislation as it is in operation at the time the order is made.
- 32 (6) Despite subsection (5), the Department –
- 33 (a) may update the text annexed under subsection (2)(b) to reflect any
34 amendment made to the applied legislation after the making of the
35 order; and
- 36 (b) must update the text if a person requests an updated text of the
37 applied legislation.
- 38 (7) Before making an order under subsection (1), the Department must –

- 1 (a) in the case of an order applying a provision of UK legislation,
2 conduct a public consultation; and
- 3 (b) in the case of an order applying a provision of UK secondary
4 legislation, consult such organisations as it considers represent
5 interests which will be affected by the order.

6 **5 Implementation by regulations of applied legislation relating to the**
7 **welfare of companion animals**

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

12 Tynwald procedure — approval required.

- 13 (2) Before making regulations under subsection (1), the Department must
14 consult such organisations as it considers represent interests which will be
15 affected by the regulations.

- 16 (3) Without limiting subsection (1), regulations may —

- 17 (a) provide for their contravention to be an offence and for a maximum
18 penalty (summary) of 2 years' custody and —

19 (i) if the offence relates to more than 10 animals, of a fine not
20 exceeding level 3 on the standard scale for each animal;

21 (ii) if the offence relates to carcasses, fodder, litter, excrement or
22 other things (exclusive of animals), of a fine not exceeding
23 level 3 on the standard scale in respect of every 500
24 kilograms in weight thereof after the first 500 kilograms in
25 addition to the first fine not exceeding level 5 on the
26 standard scale; or

27 (iii) unless subparagraph (i) or (ii) applies, a fine not exceeding
28 level 5 on the standard scale;

- 29 (b) make consequential, incidental, supplementary, saving,
30 transitional and transitory provision;

- 31 (c) permit a person to exercise a discretion in respect of any matters
32 specified in the regulations; and

- 33 (d) require compliance with standards or the adoption of practices
34 recommended or specified from time to time (whether before or
35 after the making of the regulations) by a person or body specified
36 in the regulations.

37

IN THE KEYS

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 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; and for connected purposes.

Approved by the Council of Ministers
for introduction in the House of Keys.

MR BOOT

APRIL 2021