

# The Welsh Government's Legislative Consent Memorandum on Animal Welfare (Service Animals) Bill

February 2019

## Background

### The Bill

#### Overview

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**1.** The Animal Welfare (Service Animals) Bill<sup>1</sup> (the Bill) received its first reading in the House of Commons on 13 June 2018 and is sponsored by Sir Oliver Heald QC MP (i.e. it is a Private Member's Bill). This Bill was considered in a Public Bill Committee in the House of Commons on Wednesday 16 January and was reported unamended, before progressing through Report stage and third reading on 8 February 2019. The Bill received its first reading in the House of Lords on 11 February 2019. Second reading is scheduled to take place on 1 March 2019.

**2.** The explanatory notes to the Bill state that:

“The Bill provides for increased protection for service animals by amending section 4 of the Animal Welfare Act 2006 (the “2006 Act”). It addresses public concerns about the application of section 4(3)(c)(ii) of the 2006 Act to attacks on service animals, where a defendant accused of causing unnecessary suffering to an animal could claim they were protecting themselves and are justified in using physical force against a service animal, causing it, effectively, necessary suffering.

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<sup>1</sup> [Animal Welfare \(Service Animals\) Bill 2017-10.HC.225](#)



This Bill amends section 4 of the 2006 Act to require a Court to disregard the consideration at section 4(3)(c)(ii) of the 2006 Act in certain circumstances when assessing whether suffering was unnecessary in the context of causing suffering to a service animal.”<sup>2</sup>

## The Welsh Government's Legislative Consent Memorandum

- 3.** In accordance with Standing Orders 29.1 and 29.2, a Legislative Consent Memorandum (LCM) is required because provisions in the Bill modify or fall within the Assembly's legislative competence.
- 4.** On 17 January 2019, the Minister for Environment, Energy, and Rural Affairs laid before the National Assembly an LCM in respect of the Bill.<sup>3</sup>
- 5.** On 22 January 2019, the Business Committee referred the LCM to this Committee, and the Climate Change, Environment and Rural Affairs Committee for consideration. The Business Committee set a reporting deadline of 1 March 2019.<sup>4</sup>
- 6.** Paragraphs six to 10 of the LCM set out the Welsh Government's assessment of which provisions in the Bill require consent, namely clause 1 and clause 2.<sup>5</sup>
- 7.** Paragraph 11 of the LCM sets out the Welsh Government's reasons why including provision for Wales in the Bill is appropriate:

“Animal welfare is a priority of the Welsh Government and it is the view of the Government that it is appropriate to deal with these provisions in this UK Bill for reasons of timing and coherence. The provisions of the Bill align with the Welsh Government policy objectives regarding the promotion of animal welfare. Taking them forward in this UK Bill will mean that service animals in Wales will be afforded the same level of protection at the same time as those in England.”<sup>6</sup>

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<sup>2</sup> [Animal Welfare \(Service Animals\) Bill: Explanatory Notes](#), June 2018

<sup>3</sup> Welsh Government, [Legislative Consent Memorandum, Animal Welfare \(Service Animals\) Bill](#), January 2019

<sup>4</sup> Business Committee, [Timetable for consideration of the Legislative Consent Memorandum on the Animal Welfare \(Service Animals\) Bill](#), January 2018

<sup>5</sup> Welsh Government, [Legislative Consent Memorandum, Animal Welfare \(Service Animals\) Bill](#), January 2019

<sup>6</sup> Welsh Government, [Legislative Consent Memorandum, Animal Welfare \(Service Animals\) Bill](#), January 2019

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## Committee consideration

**8.** We considered the Welsh Government's LCM in respect of the Bill at our meeting on 4 February 2019.<sup>7</sup>

### Our view

**9.** We note the Welsh Government's reasons as to why, in its view, making provision for Wales in the Bill is appropriate.

**10.** We are disappointed that the Welsh Government did not see cause and opportunity for bringing forward its own legislation, particularly as the Minister has stated that animal welfare is a priority of the Welsh Government.

**11.** In respect of the point raised by the Minister that it is only by taking provisions in the Bill that service animals in Wales will be afforded the same level of protection at the same time as those in England, we do not believe this to be of sufficient concern to warrant legislating on an England and Wales basis.

**12.** In our view, the legislative processes within the National Assembly and UK Parliament could have facilitated scrutiny of respective Bills within similar timeframes. Conversely, nations within the UK have already legislated at different speeds on other matters, including the minimum unit pricing of alcohol and charges for single use carrier bags.

**13.** Furthermore, legislating on a Wales-only basis would have also added to, and supported, the Welsh Government's aim of developing and supporting a bilingual body of Welsh law.

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<sup>7</sup> Constitutional and Legislative Affairs (CLA) Committee, 4 February 2019