

## LEGISLATIVE CONSENT MEMORANDUM

### Dogs (Protection of Livestock) (Amendment) Bill

1. This Legislative Consent Memorandum is laid under Standing Order (“SO”) 29.2. SO29 prescribes that a Legislative Consent Memorandum must be laid, and a Legislative Consent Motion may be tabled, before Senedd Cymru if a UK Parliamentary Bill makes provision in relation to Wales for any purpose within, or which modifies the legislative competence of the Senedd.
2. The Dogs (Protection of Livestock) (Amendment) Bill was introduced by Dr Thérèse Coffey MP as a Presentation Bill in the House of Commons on 11 December 2023. The Bill can be found at: <https://bills.parliament.uk/bills/3570>

### Policy Objectives

3. This Presentation Bill is one of a number of Private Members Bills (PMBs) introduced to the UK Parliament in 2023 arising from the Animal Welfare (Kept Animals) Bill 2021-22 which was dropped in May 2023. The Bill delivers a number of amendments to the Dogs (Protection of Livestock) Act 1953 and will extend to England and Wales only. These measures were contained in the UK Government’s “Our Action Plan for Animal Welfare”, published in May 2021.
4. The stated policy objective is for the Bill to address the serious issue of livestock worrying in England and Wales. Dog attacks on farm animals are a significant concern to farmers and rural communities.

### Summary of the Bill

5. The Bill is sponsored by Defra.
6. The Dogs (Protection of Livestock) (Amendment) Bill includes provisions to deliver a number of amendments to the Dogs (Protection of Livestock) Act 1953 to improve enforcement in response to incidents of livestock worrying by dogs. The Bill does so by increasing the powers available to police for gaining evidence and subsequently improve police enforcement. The Bill will include extending the landscape covered to include roads and paths and expand the scope of livestock currently afforded protection to include camelids.

### Provisions in the Bill for which consent is required

7. Consent is required for the following provisions of the Bill, they make provision with regard to devolved matters insofar as they apply to Wales, notably animal welfare and agriculture.

### Clause 1: Livestock worrying: scope and consequences of offence

8. This clause gives effect to the Schedule, which sets out amendments to the 1953 Act. These include extending the landscape covered to include roads and paths and including camelids in the definition of livestock.
9. It is my view that consent is required for this clause as it makes provision with regard to devolved matters insofar as it applies to Wales, notably animal welfare and agriculture.

#### Clause 2: Seizure and detention of dogs

10. Subsection (1) of this clause replaces section 2 of the 1953 Act. This clause sets out the circumstances, described in new section 2(1) and (8), in which a constable may seize and detain a dog in relation to the offence of attacking or worrying livestock.
11. The limited scope of the existing power prevents the police from seizing a dog for prolonged periods of time. It is common for a dog alleged to have worried livestock, whose owner is awaiting trial for an offence under the 1953 Act, to commit further attacks in the interim period between the incident and the court case which can be a relatively long period. The measure aims to help prevent dogs from repeatedly worrying or attacking livestock.
12. New subsection (2) provides that a constable who seizes a dog in the circumstances described in subsection (1) may detain the dog until the owner has claimed the dog and paid all expenses incurred by reason of its seizure and detention.
13. New subsection (3) makes provision about what can be done to any dog seized under subsection (1) if they are not claimed after seven days.
14. New subsection (4) provides that if a person takes possession of a seized dog in good faith, that person becomes the owner of the dog.
15. New subsections (5) and (6) set out requirements in relation to the keeping of a register of all dogs seized under subsection (1) by the chief officer of police for each police area.
16. New subsection (7) includes a definition of “disposing of” a dog for the purposes of this section.
17. New subsections (8) and (9) empower the police to seize and detain a dog where they have reasonable grounds to believe that the dog poses a risk of attacking or worrying livestock again, if not detained.
18. Subsection (2) of this clause makes consequential provision to repeal section 3 of the Dogs Act 1906 so far as still in force by virtue of section 68(2) of the Clean Neighbourhoods and Environment Act 2005.

19. It is my view that consent is required for this clause as it makes provision with regard to devolved matters insofar as it applies to Wales, notably animal welfare and agriculture.

### Clause 3: Collection of samples and impressions

20. This clause inserts a new section 2ZA. Subsections (1) to (4) enable a constable to take samples or impressions from a dog or livestock where this might provide evidence of an offence being committed under section 1 of the 1953 Act and seize and detain a dog for that purpose. As livestock attacks take place in rural areas, there is a lack of CCTV coverage and eye witnesses, and limited house to house enquiry or Crime Scene Investigation (CSI) opportunities. Therefore, information derived from a sample or impressions to link a dog to an incident could be a key enabling factor to increase the rate of successful prosecutions.

21. Subsection (5) provides that if the act of taking a sample would amount to an act of veterinary surgery, it must be done by a veterinary surgeon.

22. Subsection (6) makes provision about how long samples and impressions taken under this section may be retained.

23. Subsection (7) defines “sample”, “veterinary surgeon”, and “veterinary surgery” for the purpose of this section.

24. It is my view that consent is required for this clause as it makes provision with regard to devolved matters insofar as it applies to Wales, notably animal welfare and agriculture.

### Clause 4: Powers of entry

25. This clause replaces section (2A). It enables a warrant to be issued by a justice of the peace authorising the entry and search of premises by a constable in order to identify a dog in respect of which an offence under section 1 has been committed, seize and detain the dog under section 2, take a sample or impression from the dog under section 2ZA or to seize any evidence of an offence under section 1 that may be found. Examples of items of evidence could include a bloody dog collar or towel.

26. Subsections (1) and (3) provide that the justice of the peace who issues a warrant under this clause must be satisfied that there are reasonable grounds to believe that an offence under section 1 has been committed.

27. Subsection (5) provides that a warrant under this clause may authorise the constable to use reasonable force if necessary.

28. It is my view that consent is required for this clause as it makes provision with regard to devolved matters insofar as it applies to Wales, notably animal welfare and agriculture.

#### Clause 5: Extent, commencement, transitional provision and short title

29. Subsection (1) of this clause sets out the territorial extent of this Bill as England and Wales.

30. Subsections (2) sets out when this Bill will come into force. The Bill will come into force at the end of the period of three months beginning with the day on which this Act is passed.

31. Subsection (3) clarifies that the powers conferred by clauses 2, 3 and 4 are available in connection with any worrying or attacking of livestock which took place (or is alleged to have taken place) before the Bill comes into force.

32. Subsection (4) provides that the short title of the legislation is the Dogs (Protection of Livestock) (Amendment) Act 2024.

33. It is my view that consent is required for this clause as it makes provision with regard to devolved matters insofar as it applies to Wales and, notably, to animal welfare and agriculture.

#### Schedule: Amendments to the Dogs (Protection of Livestock) Act 1953

34. This Schedule makes amendments to the 1953 Act.

35. Paragraphs 1(2)(b), 1 (4) and 1(5) amends section 1 of the 1953 Act to bring roads and paths within scope of the offence. Animals might be herded along a road or path when moving to another field, or dairy cattle might be moved from a field to a milking parlour, for example. During these moves they may be vulnerable to dog attacks.

36. Paragraph 1(2)(a), (3), (6)(a) and (c) and (8) update the terminology used in the 1953 Act so that attacking livestock is dealt with separately from worrying livestock. The purpose of the amendment is so as to recognise the violent nature of those offences.

37. Paragraph 1(6)(d) amends section 1(4) of the 1953 Act so as to exempt a dog owner from liability for an offence where the dog is in charge of another person without the owner's consent.

38. Paragraph 1(7) replaces section 1(6) of the 1953 Act to clarify that a person found guilty of an offence under section 1 is liable to a fine not exceeding level 3 (currently £1000) on the standard scale. The amendment is intended to clarify the existing provision which, following previous amendments, could be expressed more compactly. It does not change the applicable penalty.

39. Paragraph 1(7) also inserts new sections 1(7) to (9) into the 1953 Act which allow for a court to order a person convicted of an offence to pay expenses associated with seizing and detaining a dog under section 2(8) and (9), clarify that the court is free to make the order whether or not it also imposes a fine, and set out that any sum that a person is directed to pay under section 1(7) is treated for the purposes of enforcement as if it were compensation payable under a compensation order.
40. Paragraph 2 amends section 3(1) of the 1953 Act 1953 to include camelids to the definition of “livestock”.
41. It is my view that consent is required for this Schedule as it makes provision with regard to devolved matters insofar as it applies to Wales, notably animal welfare and agriculture.

### **UK Government View on the need for Consent**

42. The Bill extends and applies to England and Wales. The UK Government feels this is within the competence of Westminster and therefore will not need Consent on the basis that it relates to the matter of dangerous dogs and dogs dangerously out of control.
43. It is my view that the Consent of the Senedd is required for the provisions of the Bill because they make provision with regard to devolved matters in so far as they apply to Wales, namely, animal welfare and agriculture.

### **Financial implications**

44. It is not considered the Bill has financial implications for Welsh Government beyond staff costs.

### **Conclusion**

45. In my view it is appropriate for all relevant provisions to be made in this UK Bill to progress important and high profile animal welfare issues. Therefore, I recommend that the Senedd supports the proposals and gives its consent.

**Huw Irranca Davies MS**  
**Cabinet Secretary for Climate Change & Rural Affairs**  
**8 May 2024**