

# **The Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Bill**

**Fairer Scotland Duty**

**Assessment Not Required Declaration**

**October 2019**



**Scottish Government**  
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## FAIRER SCOTLAND DUTY

### ASSESSMENT NOT REQUIRED DECLARATION

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|---|--|
| Policy title                                    | ANIMALS AND WILDLIFE (PENALTIES, PROTECTIONS AND POWERS) (SCOTLAND) BILL   |
| Directorate: Division: team                     | DIRECTORATE FOR AGRICULTURE AND RURAL ECONOMY (ARE)<br><br>ARE : Animal Health and Welfare<br><br>AHW : Animal Welfare |
| Policy lead responsible for taking the decision | Andrew Voas  |

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| Rationale for decision   |
| <p>An assessment under the Fairer Scotland Duty is not required because the provisions of the Bill should not have any direct implications on socio-economic inequalities.</p> <p>The Bill will amend the Animal Health and Welfare (Scotland) Act 2006 in the following ways:</p> <ul style="list-style-type: none"><li>• it will increase the maximum available penalties for the most serious animal welfare offences (including attacks on service animals) to a prison sentence of five years, an unlimited fine or both (and make related procedural changes including the removal of the six month time limit to bring prosecutions).</li><li>• it will give Scottish Ministers a power to make regulations allowing fixed penalty notices to be used in relation to animal health and welfare offences;</li><li>• it will increase the protection for service animals by making it easier to convict people of causing them unnecessary suffering (also known as “Finn’s Law”); and</li><li>• it will give authorised persons (including certain inspectors and constables) new powers to transfer, sell, treat or humanely destroy animals that have been taken into possession to alleviate suffering.</li></ul> |

The Bill also amends several pieces of legislation protecting Scotland's wildlife in the following ways:

- it increases the maximum available penalties for the most serious wildlife offences to a prison sentence of five years, an unlimited fine or both;
- it increases the maximum penalty available for other wildlife offences remaining under summary conviction only, to a prison sentence of 12 months or a fine up to £40,000 or both; and
- it extends the time allowed for prosecution under summary conviction to six months from which sufficient evidence came to the knowledge of the prosecutor, but no more than three years from the date of the offence.

The offences to be amended are;

- Conservation (Natural Habitats &c) Regulations 1994, sections 39 & 41
- Protection of Badgers Act 1992, sections 1 – 3
- Protection of Wild Mammals (Scotland) Act 2002, section 1
- Wild Mammals (Protection) Act 1996, section 1
- Wildlife and Countryside Act 1981, sections 1, 5 – 11 & 14
- Deer (Scotland) Act 1996, sections 17, 21 & 22

The provisions of the Bill will impact on those that have committed an offence relating to animal welfare, animal health or wildlife, and on those who have a role in enforcing the legislation. The Bill provisions are not considered to impact on law-abiding animal owners, keepers or businesses more widely.

8. It is assumed that detection rates of animal welfare and wildlife offences will be unaffected by the provisions of the Bill, as no changes to detection methods are being proposed. The Bill changes the potential consequences of animal welfare & wildlife crimes, but has no direct impact on their detection and investigation.

No new offences are being created and although the changes proposed by the Bill will enable the potential for higher fines and increased prison sentences, it is still a matter for the courts to decide the appropriate sentence to impose, after taking into account all the evidence and mitigating factors presented to them. It is our assumption that the provisions of the Bill will only affect those who carry out an offence, those persons who are served with a fixed penalty notice and those organisations that enforce these crimes.

Therefore there should be no inequalities of outcome as a direct result of the proposed amendments to the existing legislation.

That said, it is acknowledged that currently people on lower incomes;

- may struggle to care for their animals correctly, resulting in welfare issues, for example being unable to afford veterinary bills,
- may experience more multiple agency interventions in their home, and therefore any animal welfare issues may be detected more readily, and
- may struggle to pay a fine imposed by a court (or a penalty specified in an FPN).

These matters will not be addressed or altered by the provisions of this Bill.

**I confirm that the decision to not carry out a Fairer Scotland assessment has been authorised by:**

| Name and job title of Deputy Director (or equivalent)   | Date authorisation given        |
|---|---------------------------------|
| Sheila Voas<br><br>Chief Veterinary Officer (Scotland) and Deputy Director of the Animal Health & Welfare Division, Scottish Government | 26 <sup>th</sup> September 2019 |



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