

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

[As Amended at Stage 2]

Revised Delegated Powers Memorandum

Introduction

1. This revised Delegated Powers Memorandum has been prepared by Scottish Parliament officials on behalf of Emma Harper MSP, the member in charge of the Dogs (Protection of Livestock) (Amendment) (Scotland) Bill, to accompany the Bill (as amended at Stage 2), as required under Rule 9.7.10 of the Parliament's Standing Orders.

Outline of Bill provisions

2. The Bill strengthens and updates the law in relation to livestock worrying – in which sheep or other farmed animals are attacked or chased by dogs. Reducing the number of such incidents will reduce the cost and stress they cause to farmers, while also improving animal welfare. To this end, the Bill increases penalties and provides additional powers for the investigation and enforcement of the existing offence of livestock worrying under the Dogs (Protection of Livestock) Act 1953.

3. The Bill also brings up to date the definition of livestock in terms of species which are currently farmed in Scotland, and renames the offence as that of “attacking or worrying” livestock, to emphasise how serious it can be.

4. The amended Bill is in nine sections and contains one delegated power provision in section 6(4), described in detail below. The other delegated power provision in the Bill as introduced (h, section 5(1)) was removed by amendment at Stage 2.

Delegated Powers

Section 6(3) – Power to amend definitions

Power conferred on: the Scottish Ministers
Power exercisable by: regulations made by Scottish statutory instrument
Parliamentary procedure: affirmative procedure

Provision

5. New section 3(4) of the 1953 Act (inserted by section 6(3) of the Bill) provides Scottish Ministers with the power, by regulations, to amend the definitions set out in section 3(1) of the 1953 Act. These definitions currently are for “agricultural land” and “livestock”; the Bill amends these definitions and adds definitions for “assistance dog” and “veterinary surgeon”. The “livestock” definition (as amended by the Bill) includes further definitions for “cattle”, “horses”, “farmed deer”, “enclosed game birds” and “poultry”.

Reason for taking power

6. The 1953 Act illustrates the need for statutory definitions to change and evolve over time: the Act’s definition of “livestock”, for example, has not changed since the Act was passed, but there are now many more species of livestock farmed in the UK than there were in 1953. The Bill updates the definition (e.g. by adding reference to camelids and farmed deer), but further species may need to be added in future. Other definitions may also require to be updated as circumstances change. It therefore seems sensible to allow Scottish Ministers to amend these definitions, by regulations, as appropriate.

Choice of procedure

7. The use of this power was (in the Bill as introduced) subject to the negative procedure (by virtue of new section 3(5) of the 1953 Act, inserted by section 6(4) of the Bill). However, the Delegated Powers and Law Reform Committee recommended in its report on the Bill at Stage 1 that the affirmative procedure would be more appropriate, and the member in charge accordingly lodged a Stage 2 amendment to change the procedure from negative to affirmative. The amendment was agreed to unanimously.

8. Some of the definitions (for example, that of “veterinary surgeon”) are technical definitions which could only really be amended in non-substantive ways. However, the definitions of “livestock” and “agricultural land” are more substantive and help to determine the scope of the main criminal offence. Accordingly, the affirmative procedure is considered the appropriate level of parliamentary scrutiny.

This document relates to the Dogs (Protection of Livestock) (Amendment) (Scotland) Bill (SP Bill 72) as amended at Stage 2

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