



ANIMAL WELFARE BILL 2022 EXPLANATORY NOTES

These notes are circulated for the information of Members with the approval of the Member in charge of the Bill, Hon. Michelle Haywood MHK.

INTRODUCTION

1. These explanatory notes relate to the Animal Welfare Bill 2022. They have been prepared by the Department of Environment, Food and Agriculture (“the Department”) in order to assist readers of the Bill. They do not form part of the Bill and have not been endorsed by the House of Keys.
2. The notes need to be read in conjunction with the Bill. They are not meant to be a comprehensive description of the Bill.
3. An Impact Assessment of the Bill has been prepared.

SUMMARY AND BACKGROUND

4. Animals play a special and important role in many of our daily lives and should be afforded appropriate protections from harm and mistreatment.
5. Legislation exists in the Island to protect the welfare of livestock¹, to criminalise cruelty to animals and to ensure their protection during scientific procedures². There is also limited legislation to ensure the welfare of companion animals when breeding cats and dogs³, when providing overnight boarding for cats and dogs⁴, and for the operation of horse riding establishments⁵.
6. However, the existing animal welfare legislation requires significant updating to align with modern regulatory requirements. There is also no means of providing for more general companion animal welfare regulatory controls (e.g. duty of care) as well as powers to respond to modern animal welfare issues (e.g. puppy farming and assaults on service dogs).
7. The Animal Welfare Bill 2021 was drafted to address this legislative deficit, having had regard to the recommendations made by a Tynwald Select Committee on Animal

¹ E.g. [Animal Health Act 1996](#)

² [Cruelty to Animals Act 1997](#)

³ [Breeding Cats and Dogs Act 1981](#)

⁴ [Animal Boarding Establishments Act 1973](#)

⁵ [Riding Establishments \(Inspection\) Act 1968](#)

Welfare⁶ and the subsequent report from the Department's Animal Welfare Forum in 2017.

The Bill sought to enable the application to the Island of key protections for companion animals, which were already provided in neighbouring jurisdictions, and provide the vires needed to enforce these protections. However, a motion that the 2021 Bill be read a second time failed to carry and there was not sufficient time remaining in the Parliamentary session to introduce a substantially redrafted Bill.

8. The *Our Island Plan* legislative programme therefore committed to introduce an updated and extended Animal Welfare Bill 2022 into the Branches within the 2021/22 Parliamentary year.
9. This Bill has been informed by the United Kingdom's [Animal Welfare Act 2006](#)⁷. However, with animal cruelty provided for by the [Cruelty to Animals Act 1997](#), the Bill is primarily concerned with the provisions of the Animal Welfare Act 2006 that relate specifically to animal welfare rather than cruelty.
10. The Bill accordingly makes provision for –
 - A duty of a person responsible for an animal to ensure its welfare.
 - A prohibition of the sale of animals (or offering them as a prize) to persons under 16.
 - The application to the Island of UK legislation concerning animal welfare.
 - The establishment of an Animal Welfare Register and Register of Complaints, maintained by the Department.
 - Enforcement powers.
 - Amendments to the Cruelty to Animals Act 1997 to increase the maximum penalties to more closely align with cruelty offences in the UK.
 - The consequential amendment of other Acts of Tynwald.
11. A proposed timetable of secondary legislation planned to be made as a consequence of this Bill is set out in the Appendix to this explanatory note.
12. The Bill will also allow for the application of planned UK legislation such as the Animal Welfare (Kept Animals) Bill 2021-22, which is progressing through Parliament at the time of writing. Future UK animal welfare legislation may also be applied to the Island subject to an Order made by the Department and approved by Tynwald.

⁶ i.e. the Select Committee on Animal Welfare (Petition for Redress) 2015-16 [PP 2016/0005], [Volume 1](#), [Volume 2:1](#) & [Volume 2:2](#).

⁷ As amended by the [Animal Welfare \(Service Animals\) Act 2019](#) (of Parliament) and the [Animal Welfare \(Sentencing\) Act 2021](#) (of Parliament).

STRUCTURE OF THE BILL

13. The Bill is divided into three Parts (with Part 2 being further subdivided into five cross-headings) and a Schedule as follows:

Part	Summary
Part 1: Introductory	Introductory provisions relating to the short title and commencement of the Bill. In addition, this Part defines the terms used in the Bill.
Part 2: Animal welfare	This Part of the Bill sets out the principles of animal welfare, provisions concerning the promotion of welfare and the enforcement of those provisions.
	<p><i>Principles of animal welfare</i></p> <p>This sub-Part sets out what animals fall within the scope of the Bill and under what circumstances they are a person's responsibility.</p>
	<p><i>Promotion of animal welfare</i></p> <p>This sub-Part sets out the duty of a person responsible for an animal to ensure its welfare and allows the Department to issue care improvement notices where an inspector believes that an animal is not being adequately cared for. It also prohibits the sale of animals (or offering them as a prize) to persons under 16.</p> <p>These clauses also allow the Department to apply UK legislation relating to animal welfare to the Island.</p> <p>Lastly, the Department may also make regulations for the promotion of animal welfare.</p>
	<p><i>Enforcement powers and prosecution</i></p> <p>This sub-Part allows a licensing authority to cancel a person's licence or disqualify them from holding a licence if they are convicted of an animal welfare offence.</p> <p>It also permits the Department to maintain an Animal Welfare Register of disqualifications and care improvement notices, and a Record of animal welfare complaints.</p> <p>Finally, it also sets out provisions relating to entry to premises in connection with welfare offences and relating to the inspection of farms.</p>
	<p><i>Post-conviction powers</i></p>

	This sub-Part sets out the Court’s powers, following a conviction, to deprive a person of an animal or to seize animals if a person is disqualified from keeping them.
	<i>General</i> This sub-Part provides for the appointment of animal welfare inspectors and for general enforcement of the Bill.
Part 3: Amendments and repeals	This Part makes consequential amendments to a number of animal-related Acts of Tynwald. In addition, this Part amends other Acts in order to provide for the enforcement of the Bill. Lastly, it also amends a Government Circular so as to require adherence to the Bill.
Schedule: Powers of entry, inspection and search: supplementary	The Schedule makes additional provision in relation to powers of entry, inspection and search to allow for the Bill’s enforcement.

EUROPEAN CONVENTION ON HUMAN RIGHTS

14. In the opinion of the member moving the Bill, the provisions of the Animal Welfare Bill 2022 are compatible with Convention rights.

FINANCIAL EFFECTS OF THE BILL

15. In the view of the member moving the Bill, it will require human resourcing to enable its enforcement. This will be provided by the Department out of its existing resources. In addition, the courts will be required to administer prosecutions and appeals.

There may be revenue generated for the Isle of Man Government following imposition of any financial penalties imposed as a consequence of enforcing the provisions set out in the Bill, or the secondary legislation made as a consequence of the Bill. Further revenue may be generated following the imposition of fees that may be required as a consequence of secondary legislation made as a consequence of the Bill.

NOTES ON CLAUSES

PART 1 – INTRODUCTORY

16. Further to the long title set out in the preamble to the Bill, which describe the Bill’s contents, **clause 1 (short title)** gives the Bill its short title.
17. **Clause 2 (commencement)** provides that sections 1 and 2 will commence upon the day on which the Act is passed. The remaining provisions will commence upon the

making of an appointed day order (or orders) by the Department subject to such consequential, incidental, supplemental or transitional provisions as appear necessary or expedient.

For the avoidance of doubt, the clause emphasises that such an order may provide that a code of practice issued under the Animal Health Act 1996 is to be treated as if it were made under the Bill, thereby allowing existing codes to continue to have effect.

18. **Clause 3 (interpretation)** provides the definition of key phrases contained within the Bill. The term "licences" may be amended by order made by the Department, subject to the Tynwald negative resolution procedure.

The term "licence" is defined in the Bill to include animal-related licences currently issued by the Department. However, clause 12 (review of licences following conviction) allows the Department to review and then suspend, cancel or alter the terms of a licence if he or she is convicted of an offence under clauses 6 (duty of person responsible for animal to ensure welfare) or 8 (transfer of animals by way of sale or prize to persons under 16). If these licences or the legislation that provides for them is changed, the Department will therefore be enabled to keep the list up to date.

PART 2 – ANIMAL WELFARE

19. Part 2 of the Bill is concerned with the welfare of animals. It is intended to complement the existing Cruelty to Animals Act 1997 and Animal Health Act 1996. The Cruelty to Animals Act 1997 sets out a range of animal-related offences that are considered to constitute "cruelty". As such, that Act is concerned with the prevention of cruelty while this Bill is primarily concerned with the promotion of animal welfare.

The Animal Health Act 1996 currently contains a number of provisions relating to the welfare of livestock as well as disease control in such animals. This Bill is intended to revoke and replace those welfare provisions so that welfare legislation covering all kept animals is consolidated into a single Act of Tynwald.

Principles of animal welfare

20. **Clause 4 (animals to which the Act applies)** specifies that the Act applies to non-human vertebrates but does not apply to animals in their foetal or embryonic form. However, the clause allows the Department (by order approved by Tynwald) to extend the application of the Act to non-invertebrates and their equivalent to a foetal/embryonic form.

Before making an order extending the Act to an invertebrate the Department must be satisfied on the basis of scientific evidence that they are capable of experiencing pain or suffering.

21. **Clause 5 (responsibility for animals)** clarifies that having "responsibility for an animal" occurs where a person can be said to have assumed responsibility for its day-to-day care, or for its care for a specific purpose, or by virtue of owning it. This will include a person who assumes responsibility for the animal temporarily such as a veterinary surgeon taking responsibility for the animals kept in the surgeon's surgery

overnight, staff at boarding premises, and staff at animal sanctuaries. The clause also clarifies that a person in charge of a child will be deemed responsible for any animal that the child has care and control of.

Having "responsibility for an animal" is relevant to Clause 6 (duty of person responsible for animal to ensure welfare) as the duty will only apply to those responsible for the animal.

Promotion of animal welfare

22. **Clause 6 (duty of person responsible for animal to ensure welfare)** establishes a duty to ensure the welfare of all animals for which someone is responsible, as defined in clause 5 (responsibility for animals). Where someone is responsible for an animal, he or she has a duty to take steps that are "reasonable in all the circumstances" to ensure its needs are met to the extent required by "good practice". Failure to fulfil this duty is made an offence.

The duty will apply when a person abandons an animal for which he or she is responsible. Anyone who leaves an animal without taking reasonable steps to ensure that it is capable of fending for itself and living independently will commit an offence under this clause. If the animal is caused any unnecessary suffering as a result of its abandonment, there may also be an offence committed under section 1 of the Cruelty to Animals Act 1997.

When a person transfers responsibility for an animal to another person temporarily, the duty will apply in so far as the transferer must take reasonable steps to ensure that the person to whom the responsibility is transferred will care for it appropriately. Whether the duty is fulfilled will depend on whether the steps taken to ascertain the competence of the person to whom responsibility was transferred were "reasonable in all the circumstances" under clause 6(1).

Clause 6(2) specifies some of the needs that a person responsible for an animal is required to meet (to the extent required by good practice), in order to avoid committing an offence under the clause.

Clause 6(3) specifies certain matters to which the courts should have regard, when considering whether a person has committed an offence under this clause. The provision recognises that some otherwise lawful practices may prevent or hinder a person from ensuring that all of the welfare needs specified in sub-clause (2) can be met. For instance, a police dog may be involved in activity that places it in danger of pain or injury, but this lawful activity will be taken into account.

However, sub-clause (3) does not provide those responsible for animals with an absolute defence under this clause. It will direct courts to take a lawful purpose or a lawful activity into account as one factor in the balance; it will not mean that no offence can be committed under this section so long as the activity or purpose is lawful.

Sub-clause (4) clarifies that the killing of an animal is not in itself inconsistent with the duty to ensure its welfare, if done in an appropriate and humane manner.

As clause 6 requires the needs of an animal to be met to the extent required by “good practice”, the clause also allows the Department to issue codes of practice or to approve codes issued by other bodies (following consultation), such as the [Code of Practice for the Welfare of Dogs](#) issued by the UK Department for Environment, Food and Rural Affairs.

Such codes of practice are intended to offer non-binding guidance that enforcers and the courts can refer to when making judgements on whether the relevant welfare standards stipulated in the Act have been attained. Owners and keepers of animals may also find the codes a useful resource by which to increase or confirm their understanding of acceptable welfare standards and to regulate their conduct accordingly.

Clause 6(9) provides that codes of practice shall only be issued, approved or revised following consultation with interested parties and subject to a negative Tynwald procedure.

23. **Clause 7 (care improvement notices)** empowers inspectors under the Act to issue “care improvement notices” to those responsible for animals, if they are of the opinion that the requirements of clause 6 (duty of person responsible for animal to ensure welfare) are not being met. Such notices are intended to give the recipient an opportunity to improve their welfare standards without recourse to prosecution. The clause therefore stipulates that no proceedings may be brought against the recipient before the end of the period given for compliance.

Care improvement notices must state that the inspector believes the recipient is failing to comply with clause 6 and the respects in which the inspector believes the recipient is failing to comply; state the steps that should be taken in order to comply and the time in which they must be taken; and explain that no proceedings will be instituted before the end of the compliance period.

Clause 13(8) (animal welfare register) permits the Department to take the existence of a care improvement notice that has not been complied with during the compliance period into account when it considers a matter to which animal welfare is relevant. Clause 7(5) therefore provides for a person issued with a notice to appeal a decision to issue a notice to a court of summary jurisdiction.

24. **Clause 8 (transfer of animals by way of sale or prize to persons under 16)** prohibits vendors from selling animals to any person under 16. The prohibition applies equally to the direct sale of an animal and to any indirect sale that may accompany an otherwise legal transaction.

Additionally, clause 8 creates an offence of entering into an arrangement with a person under 16, who is not accompanied by an adult, whereby an animal is to be won as a prize, except in the circumstances specified.

However, an offence is not committed if the person under 16 is accompanied by an adult, or if a responsible adult has consented to the transaction. In addition, this is not an offence if the arrangement is within a family context; for example, if a pet is offered by a parent as a reward.

25. **Clause 9 (application of legislation relating to the welfare of animals)** enables the Department, by order approved by Tynwald, to apply any provision of UK primary or secondary legislation to the Island. Such an order must specify the exceptions, adaptation and modifications that have been made to the UK legislation when applying it to the Island.

Furthermore, such an Order must have annexed to it a text of the legislation as applied to the Island, incorporating the changes that have been made. Before such an order is made the Department must –

- a. in the case of an order applying UK primary legislation, conduct a public consultation; or
- b. in the case of an order applying UK secondary legislation, consult such organisation as it considers represent interests which will be affected by the Order.

26. **Clause 10 (implementation by regulations of legislation relating to the welfare of animals)** enables the Department, by regulations approved by Tynwald, to make provision it considers appropriate to deal with any matter arising as a consequence of implementing UK legislation that has been applied to the Island.

In particular, such regulations may provide that their contravention be punishable, upon summary conviction, to a penalty of 12 months' custody. This would be as an alternative to, or in addition to, the imposition of a fine for a contravention of the regulations. The fine is a maximum of level 5 on the standard scale or, if the offence relates to more than 10 animals or (in the case of livestock) fodder, litter etc., additional fines may be imposed that vary with the extent of the offence. These fines are upon similar provisions set out in section 49 (punishment of summary offences not otherwise provided for) of the Animal Health Act 1996.

Before such regulations are made the Department must consult with such organisations as it considers represent interests which will be affected by the regulations.

27. **Clause 11 (regulations to promote welfare)** permits the Department to make general regulations for the purpose of promoting the welfare of animals for which a person is responsible.

Sub-clause (2) provides a non-exhaustive list of purposes for which the regulation-making power may be exercised. This includes power to make regulations specifying how people responsible for animals should meet their animals' needs (including those set out in clause 6(2)).

Sub-clause (3) authorises the Department to make it an offence to breach specified provisions of the regulations and confers associated powers. The power to apply a "relevant post-conviction power" in relation to conviction for an offence under the regulations enables the regulations to provide that conviction for certain offences will have certain consequences. For example, the regulations could provide that, on conviction for breach of a specified regulation, the court should have power to disqualify a person from owning animals under clause 19 (disqualification). The phrase "relevant post-conviction power" is defined in clause 3 (interpretation).

Regulations under this clause may create an offence, the penalties for which are in line with those provided for by clause 10 (implementation by regulations of legislation relating to the welfare of animals). They may also provide for a warrant to enter premises to be issued in order to search for evidence of the commission of an offence under the regulations under clause 15 (entry and search under warrant in connection with offences).

Sub-clause (5) imposes a duty on the Department to consult interested persons before introducing regulations under this clause.

Enforcement powers and prosecution

28. **Clause 12 (review of licences following conviction)** provides that where a person is convicted of a welfare offence (clause 6) or an offence in connection with transferring an animal by way of sale or prize to a person under 16 (clause 8), the "licensing authority" may review that person's "licence". Following this review the licensing authority may determine to cancel, suspend or alter the terms of the licence and may the person from holding such a licence.

Clause 3 (interpretation) defines a licence as being one issued under the Riding Establishments (Inspections) Act 1968, Animal Boarding Establishments (Isle of Man) Act 1973 or the Breeding of Dogs and Cats Act 1981, but the clause also permits the Department to amend this definition in order to allow this list of legislation to be kept up-to-date. As such, at present the "licensing authority" is the Department.

A person may make representations to the licensing authority during its review and may, additionally, appeal a decision of the authority to a court of summary jurisdiction.

29. **Clause 13 (animal welfare register)** enables the Department to maintain a register of care improvement notices issued and disqualification orders made by the court. Notices and orders will be recorded in the register within 14 days after an appeal period has ended or any appeal has been disposed of. However, no entry will be made if the appeal is successful.

Sub-clause (4) details the information that must be included in any entry on the Animal Welfare Register. Sub-clause (6) specifies the length of time for which the entries can be held: ten years for a care improvement notice and for the duration of the disqualification order. If a subsequent care improvement notice is issued to a person, the retention period will be "re-set" and the previous notice kept for a ten years.

Sub-clause (8) permits the Department or an inspector to take into consideration a care improvement notice that has not been complied with or a disqualification order when a decision is taken in relation to "a matter to which animal welfare is relevant". The Department may specify these matters in an order approved by Tynwald and following consultation with the Information Commissioner.

Such an order may also amend the required content of an entry in the Animal Welfare Register and the retention period of entries.

Sub-clauses (10) to (12) clarify that the Department's processing of personal data under clause 13 is subject to the provisions of the Applied Law Enforcement Directive.

30. **Clause 13A (record of complaints)** enables the Department to maintain a register of complaints.

Sub-clause (2) details the information that must be included in any entry on the Record of Complaints.

Sub-clause (3) ensures that the Department may only investigate a complaint within six months of that complaint being entered into the Record.

Sub-clause (4) gives the Department the power to make regulations that set out differing retention periods for complaints, depending on factors such as whether they have been investigated, whether a subsequent complaint has been received or whether the Department considers that the complaint was warranted. However, sub-clause (5) ensures that the Department cannot retain a record of a complaint longer than three years under any circumstances.

Sub-clauses (6) to (8) clarify that the Department's processing of personal data under clause 13 is subject to the provisions of the Applied Law Enforcement Directive.

31. **Clause 14 (disclosure of information from the Animal Welfare Register by the Department when responding to external requests)** permits the Department to disclose selected information it keeps on the Animal Welfare Register under clause 13 (animal welfare register) to an "authorised body" if the Department is satisfied that the request is in line with the functions of the body and the disclosure is proportionate to the aims of the request. The disclosure must also accord with data protection legislation.

An authorised body may be an inspector who is external to the Department. Should the Department use external inspectors it will be helpful to share relevant information from the Register. For instance, details of the initial complaint and any information regarding earlier complaints or disqualification orders that are in place.

An authorised body may also be the Animal and Plant Health Agency ("APHA"), an executive agency of the Department for Environment, Food & Rural Affairs. This may be helpful, for example, if a farmer owns farms both in the Island and the UK and a welfare issue occurs in the Isle of Man.

The Department may amend the definition of "authorised body", by order with Tynwald approval. This would enable the Department to disclose selected information to, for instance, registered animal breeders with the aim of ensuring that they could take the existence of a deprivation order into account before providing an animal.

32. **Clause 15 (entry and search under warrant in connection with offences)** provides that a justice of the peace may issue a warrant authorising an inspector or a constable to enter premises to search for evidence of a "relevant offence" – that is, relating animal welfare or breaching a disqualification imposed under clause 19 (disqualification).

Paragraph 5 of the Schedule confers a number of additional powers on a person exercising a power of entry under a warrant under this section. The effect of paragraph 9 of the Schedule is that a warrant authorises a person to use reasonable

force in the exercise of those additional powers. Note that paragraph 1 of the Schedule imposes a number of safeguards in relation to warrants under the Bill.

33. **Clause 16 (inspection of farm premises)** allows inspectors to enter and inspect farm premises in order to check compliance with regulations made under the Bill and in order to ascertain whether an offence under the Bill has been committed.

Sub-clause (2) enables an inspector to enter premises to carry out an inspection if he or she reasonably believes that animals are bred or kept there for farming purposes.

The effect of sub-clauses (3) and (4) is to prohibit entry into any parts of premises used as private dwellings, other than on the authority of a warrant issued by a justice of the peace. They also enable an inspector to use reasonable force to secure entry to premises if a warrant authorises this.

Paragraph 5 of the Schedule confers a number of additional powers on a person exercising a power of entry under a warrant under this section. The effect of paragraph 9 of the Schedule is that a warrant authorises a person to use reasonable force in the exercise of those additional powers.

34. **Clause 17 (time limits for prosecutions)** authorises prosecutions to be commenced within three years of the date the offence was allegedly committed, in the rare circumstance where evidence of the alleged offence has not come to light within the usual six month time limit, provided the proceedings are brought within six months of the date when sufficient evidence to mount a prosecution comes to the prosecutor's knowledge.

Sub-clause (2) provides that if a prosecutor certifies the date on which he or she learnt of the relevant evidence, that date is the starting point for calculating the period within which proceedings must be commenced.

In the United Kingdom, prior to the enactment of a similar clause in the Animal Welfare Act 2006 it sometimes proved difficult to prosecute for animal-related offences when evidence of the offence was not discovered until some considerable time after it was committed⁸. This extension of the time limit for prosecution is therefore intended to limit this difficulty.

35. **Clause 18 (deprivation)** aims to enable the courts to confiscate an animal from an owner who has been convicted of an offence in relation to that animal. A deprivation order is limited to cases where there is a clearly identifiable animal in respect of which the offence was committed.

In cases where a court has convicted a person of a breach of the duty of care in relation to animal welfare (clause 6) or a breach of a disqualification order (clause 19(9)), sub-clauses (1), (2) and (3) give the court power to make an order depriving him or her of ownership of the animals in respect of which the offence was committed, and any dependent offspring of those animals, and to make an order for the disposal of those animals. Disposal in this clause includes slaughter of the animal. Deprivation of ownership of animals may be ordered in addition to or instead of other penalties.

⁸ See the [Explanatory Notes to section 31 of the Animal Welfare Act 2006](#).

Sub-clause (4) confers ancillary powers to appoint someone to carry out the deprivation order, to require delivery of relevant animals and to confer additional powers on the person appointed to carry out the order, including powers of entry. The offender can also be made to meet the costs of carrying out the order.

Sub-clause (6) requires a court to give reasons if it decides not to make a deprivation order against a convicted person. By way of exception to this, subsection (7) provides that reasons for not imposing a deprivation order do not have to be given if a disqualification order is made under clause 19(1) (disqualification).

Sub-clause (9) permits the court imposing the deprivation order to require the payment of compensation to the person deprived if the court considers it appropriate.

For the avoidance of doubt, sub-clause (10) confirms that this clause does not affect the operation of section 4 of the Cruelty to Animals Act 1997 (power of court to deprive owner of animal).

36. **Clause 19 (disqualification)** confers a power on the court to disqualify a person from doing the things mentioned in sub-clause (3), (4) or (5) or any combination of those subsections. However, anything that is carried out under a licence (as defined in clause 3 (interpretation)) is excluded from this clause because clause 12 (review of licences following conviction) already provides for a persons' possible disqualification.

Sub-clause (6) provides that disqualification may be imposed in relation to animals generally, animals exceeding a specified number or to one or more kinds of animal. Thus a court may, for example, use its discretion under this sub-clause to disqualify a person who has been convicted of a dog-related breach of the duty of care from owning or keeping dogs, but not any other kind of animal. Alternatively, the court may restrict the number of animals that a person can keep, for instance if there is a concern that a person may be overwhelmed to the detriment of the welfare of the animals.

Sub-clause (7) allows the court to specify a period within which an offender cannot apply to terminate a disqualification order (under clause 25).

Sub-clause (8) allows the court to suspend an order so that an appeal can take place or to give time for an animal in the possession of the offender to be re-homed etc.

Sub-clause (9) requires that the court, if it chooses not to make a disqualification order, gives its reasons for this and enters them in its register of proceedings. This is intended to ensure transparency for the public regarding the decision.

People guilty of an offence under the Cruelty to Animals Act 1997 can also be disqualified from keeping animals etc. (under section 5 of that Act) so sub-clause (11) confirms that this clause does not affect the operation of section 5 of the Cruelty to Animals Act 1997.

37. **Clause 20 (seizure of animals in connection with disqualification)** enables a court to combine a disqualification order with an order that any animals owned or kept by the person disqualified be seized, where continued ownership or possession would put him or her in breach of the disqualification. Such an order could be made by the

court when a person was convicted of a welfare offence or of a breach of a previous disqualification order.

Sub-clause (2) deals with the case where a person is disqualified under clause 19 (disqualification) from owning or keeping animals and is then convicted of the offence under clause 19(10) of breaching the disqualification. It provides for the seizure of all animals that are owned or kept by that person in breach of the disqualification.

A seizure order made under this clause differs from a deprivation order made under clause 18(2) (deprivation) in that a deprivation order may only be made against a convicted owner. A seizure order under this clause may also be made against a person who keeps an animal in breach of a disqualification order.

A further distinction between a seizure order made under this clause, and a deprivation order made under clause 18(2), is that the former does not involve depriving the owner of his or her economic interest in it. Unlike an owner who is the subject of a deprivation order, an owner whose animal is seized under this clause continues to be entitled to any disposal proceeds (less any relevant expenses).

The effect of sub-clauses (3) and (4) is that if an animal seized under sub-clause (1) or (2) is owned by the disqualified person, it automatically falls to be disposed of. But, if it is not, the court must order how it can be disposed of. Sub-clause (5) ensures in this case that the owner has a chance to intervene. Sub-clause (6) enables the owner to appeal against any order for disposal that may be made.

- 38. Clause 21 (section 20: supplementary)** sets out powers of the court when it makes an order under clause 20 (seizure of animals in connection with disqualification). These include appointing a person to carry out the order and a power to give directions concerning the carrying out of the order. It can also provide that the owner of the animal or any other person the court thinks fit must reimburse costs incurred, and can confer additional powers, including powers of entry, on the person appointed to carry out the order.

Sub-clause (2) clarifies the extent of the court's powers to give directions under sub-clause (1). It includes delegating the decision on the method of disposal to the person appointed by the court under sub-clause (1).

Sub-clauses (3) and (4) require the court and the person carrying out the order to have regard to protecting the value of the animal and to limiting the costs which may be payable under a reimbursement order under sub-clause (1)(e). If a reimbursement order is made against an owner for the costs of carrying out a clause 20 order, sub-clause (5) allows the amount to be deducted from any amount due to the owner from sale of the animal.

- 39. Clause 22 (destruction in the interests of the animal)** gives the court power, where it is persuaded by a vet that it is appropriate in the interests of the animal, to order the destruction of an animal in respect of which a welfare offence under clause 6 (duty of person responsible for animal to ensure welfare) has been committed.

Sub-clause (2) gives the owner the opportunity to be heard before a destruction order is made, unless the court decides it is not reasonably practicable to communicate with him or her.

Under sub-clause (3), the court can make orders relating to practical arrangements for carrying out the destruction order and require the offender or any other person to meet the costs of carrying out the order.

Sub-clauses (4) and (5) confer a right of appeal on the offender or owner (if the owner is not the offender) unless the court considers the welfare of the animal requires it to be destroyed without delay.

40. **Clause 23 (orders under section 18, 20 or 22: pending appeals)** relates to orders concerning the deprivation, seizure or destruction of animals. Sub-clause (1) suspends the operation of any of these orders until the possibility of a successful appeal has expired. Sub-clause (3) provides that if an order is suspended under sub-clause (1), the court may, nevertheless, give directions as to how the animal(s) should be dealt with during the suspension. Sub-clause (4) gives examples of the kinds of directions the court may give under sub-clause (3)(b) to provide for the animal's welfare pending the determination of the appeal.

Sub-clause (5) provides that costs which a court directs a person to pay will be recoverable as a civil debt.

41. **Clause 24 (deprivation orders and seizure orders: offences)** makes it an offence to obstruct a person carrying out a deprivation or seizure order.

42. **Clause 25 (termination of disqualification under section 19)** relates to a disqualification order under clause 19 (disqualification). Sub-clause (1) enables a person subject to a disqualification order to apply to the court for termination of the disqualification, but sub-clause (2) imposes restrictions on the right to apply. An application cannot be made until one year has elapsed since the disqualification order was made (sub-clause (2)(a)). Where a previous application for termination of a disqualification order has been made under this clause, the application cannot be made until one year after the determination of that application (sub-clause (2)(b)). In addition to this, applications cannot be made until a period specified by the court under clauses 12(3), 19(6) or sub-clause (5) of this clause has elapsed (sub-clause (2)(c)).

Sub-clause (3) sets out the court's powers in relation to an application to terminate a disqualification order. The court may terminate the disqualification, make it less onerous, or refuse the application. Sub-clause (5) provides that, if a court dismisses the application, it may specify a longer period than the period given at sub-clause (2)(b) in which the offender may not make an application for termination of the disqualification order. The court may also order the applicant to pay all or part of the costs of the application.

43. **Clause 26 (orders made on conviction for reimbursement of expenses)** clarifies that where a court makes an order for the care or disposal of an animal under clauses 18(4)(e) (deprivation), 21(1)(e) (section 20: supplementary) or 22(3)(e) (destruction in the interests of the animal), and a person incurs expenses in carrying

out that order, their expenses are recoverable as a civil debt. They are not to be treated as a fine imposed on conviction for the purposes of the Summary Jurisdiction Act 1989.

- 44. Clause 27 (orders for reimbursement of expenses: right of appeal for non-offenders)** provides that, where an order for the reimbursement of expenses is made under clauses 21(1)(e) (section 20: supplementary) or 22(3)(e) (destruction in the interests of the animal) against a person other than the person convicted of an offence under the Bill, that person will have a right of appeal against the order.

General

- 45. Clause 28 (inspectors)** provides for inspectors to enforce the Bill.

Sub-clause (1) defines the term "inspector" for the purposes of the Bill. An inspector is a person appointed by the Department. In practical terms, an inspector is currently likely to be an officer of the Department. However, the clause provides flexibility for the Department to appoint an external inspector; for instance, if that person had expertise with a specific type of animal.

Under sub-clause (2) the Department may keep a list of approved persons who are considered suitable for appointment as inspectors.

Sub-clause (3) provides that a person may be included on the list kept under sub-clause (2) either for all the purposes of the Bill or for limited specified purposes. For example, an inspector may be considered qualified to inspect the conditions in which an animal is kept but may not be empowered to issue a care improvement notice under clause 7 (care improvement notices).

Sub-clause (4) provides immunity for inspectors for actions taken outside their powers, so long as in purporting to act under their powers, they acted reasonably and in good faith.

Sub-clauses (6) and (7) states that the Department can provide or procure training for inspectors at its own cost.

- 46. Clause 29 (conditions for grant of warrant)** provides for the conditions under which a warrant may be granted under the Bill. Warrants are required in order to obtain entry to premises in a variety of circumstances. A justice of the peace can issue warrants under clauses 15(1) (entry and search under warrant in connection with offences) and 16(4) (inspection of farm premises). In such cases, one of four conditions set out in this clause must be met before a magistrate can grant a warrant to allow a constable or inspector to enter. Subsections (4) and (5) apply equally to private dwellings and other premises.
- 47. Clause 30 (powers of entry, inspection and search: supplementary)** gives effect to the Schedule, which sets out supplementary powers and duties relating to powers of entry, inspection or search conferred by the Bill, or conferred by warrants under the Bill.

48. **Clause 31 (power to stop and detain vehicles)** creates powers to stop and detain vehicles where there is a right of entry for constables and inspectors under the Bill. The definition of premises includes vehicles and various moveable structures (see definition in clause 3(1) (interpretation)).

Sub-clause (1) allows a constable, or an inspector if he or she is accompanied by a constable, to stop and search vehicles to gather evidence where there is reasonable suspicion that a relevant offence has been committed. Sub-clause (2) allows an inspector, if accompanied by a constable in uniform, to stop and detain a vehicle in order to search it in connection with the exercise of his or her powers of inspection in relation to the inspection of farm premises. These sub-clauses also apply where the constable or inspector is acting under a relevant warrant.

Sub-clause (3) provides that the vehicle can be detained for as long as is reasonably required to enable a search or inspection to be carried out (including the exercise of any other related power, e.g. to take tests or samples).

49. **Clause 32 (power to detain vessels, aircraft and hovercraft)** provides additional enforcement powers for inspectors.

Sub-clause (1) provides that a vessel can be detained in port if an inspector believes that an offence is being or has been committed on board. The inspector must put his or her reasons in writing and present a copy of this as soon as practicable to the person in charge of the vessel and bring the detention of the vessel before a court of summary jurisdiction (sub-clause (2)). The court may then order the vessel's continued detention or its release.

Where the fact of the detention is not brought before a court and this is due to a failure on the part of the inspector, sub-clause (3) provides for the release of the vessel from the detention.

Sub-clause (4) allows the detention of the ship to be enforced. Section 74 of the Merchant Shipping Registration Act 1991 provides various penalties should the vessel leave port before it has been granted permission to do so.

Sub-clause (5) allows the Department, by regulations approved by Tynwald, to provide for the detention of aircraft or hovercraft equivalent to section 74 of the Merchant Shipping Registration Act 1991.

50. **Clause 33 (obtaining of documents in connection with carrying out orders etc)** requires the owner of an animal, in relation to which any of the various orders under the Bill has been made, to deliver relevant documents relating to that animal to the person who is authorised to carry out the order. The documents must be delivered as soon as practicable and, in any event, within 10 days of the person being informed of the requirement.

Sub-clause (2) imposes a similar duty on the owner to deliver documents to a person who is authorised to carry out a direction made during a period when the effect of an order is suspended pending appeal (see further clause 23 (orders under section 18, 20 or 22: pending appeals)).

51. **Clause 34 (scientific research)** exempts activity carried out during regulated scientific research from the provisions of the Bill. However, there are currently no licences granted for experiments on animals on the Island.

Scientific procedures on animals are governed by the Cruelty to Animals Act 1997 ("the CTAA"), which makes provision for the licensing of people, projects and places where research is carried out on animals. Nothing in this Bill applies to anything lawfully done under Part 2 (protection of animals used for scientific procedures) of that Act.

Sub-clause (2) provides that powers of entry conferred by the Bill do not apply in relation to places designated under sections 14 (personal licences) and 15 (project licences) of the CTAA. The only exception to this is the power of entry to inspect farming premises because it is possible for premises to be 'dual purpose'; to operate both as experimenting premises and also as a farms. The power under clause 16(2) (inspection of farm premises) to inspect farm premises will only be exercisable in relation to animals which are reasonably believed to be bred or kept for farming purposes i.e. the power will not extend to those animals on the premises which are being bred, kept or used for experimental or scientific purposes.

Sub-clause (3) provides that clause 6 (duty of person responsible for animal to ensure welfare) does not apply to animals at a place specified in a licence under Part 2 of the CTAA which are kept for use in regulated procedures (as defined in section 12 of the CTAA), or which have been bred for such a use, or which are kept for breeding offspring to be used in regulated procedures.

Clause 6 of the Bill does apply to any animals that are at a place specified in a licence under Part 2 of the CTAA but which are not covered by the CTAA because they are not being used in connection with the scientific research covered by the personal licence or project licence.

52. **Clause 35 (fishing)** provides that anything which occurs in the normal course of fishing is not covered by the Bill. A person may be considered as being "in charge of" a fish while it is being caught so the effect of this exception is that the Bill has no application to anything that happens to the fish in the normal course of fishing. So, for example, whilst it is a normal fishing practice catch and release will not be subject to the Act.

The term 'fishing' should be understood as applying to ordinary activities of fishermen and anglers, and also the ordinary activities of those who own and run stocked ponds in allowing fishing activities to take place on their ponds.

PART 3 – AMENDMENTS AND REPEALS

53. **Clause 36 (Riding Establishments (Inspection) Act 1968 amended)** amends the Riding Establishments (Inspection) Act 1968 in consequence of the provisions of the Bill. The Act is amended to extend the existing provisions (regarding the cancellation of licences issued under the Act) to incorporate disqualifications under the Bill (or legislation applied under/implementing the Bill). At present, only disqualification under the Cruelty to Animals Act 1997 ("the CTAA") is referred to.

Under the CTAA a person can only be disqualified from having the custody of animals. To accommodate the extended types of disqualification, this clause inserts a new sub-section (2A) to extend the meaning of "disqualified".

Clause 36 amends the Act to allow the Department to amend the legislation under which a person can be disqualified from holding a licence.

54. **Clause 37 (Animal Boarding Establishments (Isle of Man) Act 1973 amended)** amends the Animal Boarding Establishments (Isle of Man) Act 1973 in consequence of the provisions of the Bill. The Act is amended to update and extend the existing provisions (regarding situations when a licence under the Act should not be granted) to incorporate disqualifications under "animal welfare legislation" or "UK animal welfare legislation". The amendments insert definitions of these terms such that licences should not be granted if a person is disqualified under the Act, The Cruelty to Animals Act 1997, Part 2 of the Bill, legislation applied to the Island under the Bill, or specified regulations made under the Bill. Several of the UK Acts referred to in this sub-section are no longer in force so they are instead replaced with the term "UK animal welfare legislation" which is tied to the definition in clause 3 (interpretation) of the Bill. The effect is to recognise disqualifications under UK legislation that concerns animal welfare.

To simplify the existing sub-section 1(2), examples of the meaning of "disqualified" are given in a new sub-section (2A) which incorporate the different forms of disqualification under the specified legislation.

Section 3(3) provides that a court can cancel a licence under the Act of a person who is convicted of an offence under the Act or the Cruelty to Animals Act 1997. This section is amended so that a court can additionally cancel a licence if a person receives a disqualification order or an order for the seizure of an animal under the Bill.

55. **Clause 38 (Breeding of Dogs and Cats Act 1981 amended)** amends the Breeding of Dogs and Cats Act 1981 in consequence of the provisions of the Bill. The Act is amended to extend the existing provisions of section 1(2) (regarding situations when a licence under the Act should not be granted) to incorporate disqualification orders under the Bill, welfare regulations made under the Bill, animal welfare applied to the Island or implementing regulations under the Bill. The current section 1(2) also allows takes into account disqualifications under certain listed UK Acts, many of which are no longer in force. The section is therefore also amended to replace such references with a reference to "UK legislation" (as defined in clause 3(1) of the Bill). The effect is to recognise disqualifications under any UK primary or secondary that concerns animal welfare.

Section 3(3) provides that a court can cancel a breeding establishment licence of a person who is convicted of an offence under the Act, the Cruelty to Animals Act 1997, the Animal Boarding Establishments (Isle of Man) Act 1973, or the Cruelty to Animals Act 1955 (now repealed). This sub-section is amended to update the reference to the Cruelty to Animals Act 1997 (rather than 1955) and so that a court can additionally cancel a licence if a person receives a disqualification order or an order for the seizure of an animal under the Bill or legislation applied under the Bill.

Section 3(4) is amended to update the references to specific UK Acts with, effectively, a reference to “UK legislation” within the meaning of clause 3 of the Bill.

56. **Clause 39 (Animal Health Act 1996 amended)** amends the Animal Health Act 1996 in consequence of the provisions of the Bill. Part 3 of the Animal Health Act primarily provides for the welfare of livestock. To avoid overlapping legislation, the majority of Part 3 will be repealed with the welfare of livestock (as well as all other kept animals) instead provided for by the Bill.

In addition, section 40 (power to detain vessels and aircraft) will be amended to make reference to “hovercraft” in order to more closely align it with the equivalent clause (clause 32 (power to detain vessels, aircraft and hovercraft)) in the Bill.

57. **Clause 40 (Cruelty to Animals Act 1997 amended)** amends the Cruelty to Animals Act 1997 to increase the penalties for offences under the Act and to replace references to fines of an absolute amount with a reference to one on the standard scale. The penalties will be increased in line with those provided for in the UK Animal Welfare Act 2006 (as amended by the Animal Welfare (Sentencing) Act 2021). A maximum penalty for an offence under section 1 (offences of cruelty) will increase to five years’ custody and/or an unlimited fine.
58. **Clause 41 (Police Powers and Procedures Act 1998 amended)** amends the Police Powers and Procedures Act 1998 to include a reference to the Bill in Schedule 1A (powers of seizure) of the Act. This will have the effect of extending, to those enforcing the Bill, the powers of seizure and requirements contained in sections 26A (additional powers of seizure from premises), 26E(5)(b) (obligation to return items subject to legal privilege), 26J(10)(b) (application to judge), and 26M(1)(a) (use of inextricably linked property) of the Act.
59. **Clause 42 (Cross Compliance Standards for the Countryside Care Scheme 2009)** amends the Cross Compliance Standards for the Countryside Care Scheme 2009⁹ to insert a reference to the Bill. This will have the effect of introducing a requirement to comply with the Bill for those who are applying for the Countryside Care Scheme 2009¹⁰. Failure to comply with the Bill would therefore lead to a deduction in grant under that Scheme.

SCHEDULE – POWERS OF ENTRY, INSPECTION AND SEARCH: SUPPLEMENTARY

60. **Paragraph 1 (safeguards etc. in connection with powers of entry conferred by warrant)** imposes a number of safeguards in relation to warrants under the Bill. It provides that the safeguards in relation to the issue of warrants to constables contained in the Police Powers and Procedures Act 1998, apply to inspectors for the purposes of the issue of warrants under clause 15(1) (entry and search under warrant in connection with offences).
61. **Paragraph 2 (power to require assistance)** imposes an obligation to give assistance to a person exercising the power of entry under clauses 15 (entry and

⁹ GC 62/08.

¹⁰ GC 59/08.

search under warrant in connection with offences) or 16 (inspection of farm premises). This is imposed on the occupier, anyone appearing to be the owner or keeper of animals there, or anyone appearing to be under the direction or control of the owner or keeper.

62. **Paragraph 3 (power to take equipment onto premises)** will allow an inspector or constable entering premises under the powers specified in paragraph 2 to take equipment onto the premises with him or her.

63. **Paragraph 4 (duty to leave premises secured)** imposes a duty on a person exercising the powers specified in paragraph 2 to leave the entered premises as effectively secured against entry as they were before the person entered them.

64. **Paragraphs 5 to 9 (functions in connection with inspection and search)** provide for additional powers on a person exercising a power of entry under a warrant. Paragraph 5 outlines the powers of inspection, search, and seizure which an inspector or constable will have once he or she has entered premises under clause under a warrant conferred under section 15(1) (entry and search under warrant in connection with offences) or 16(1) (inspection of farm premises). Paragraph 6 requires a duplicate of any sample taken during a search to be given to a person responsible for an animal if requested.

Paragraph 7 excludes the power of seizure under paragraph 5 from items subject to legal privilege. The paragraph also clarifies the length of time that anything seized under the power can be retained for and that a record of the item must be provided if requested by a relevant person. Paragraph 8 requires a person exercising the power under paragraph 5 to prepare a report on the inspection or search.

The effect of paragraph 9 is that a warrant authorises a person to use reasonable force in the exercise of those additional powers.

65. **Paragraph 10 (offences)** makes it an offence to obstruct a person lawfully exercising a power of entry or a power under the Schedule, or to fail to give assistance as required under paragraph 2.

Appendix

Draft sequence of secondary legislation planned to be made using the vires of the Animal Welfare Bill 2022

Title	Description
Appointed Day (No. 1) Order	Commence all clauses. Will state that all codes of practice under the Animal Health Act 1996 are to be treated as if they are made under the Animal Welfare Act 2022.
Animal Welfare (Codes of Practice) (Application) Order	Will be moved for approval at the same sitting as the above ADO. Will apply UK codes of practice for the purposes of clause 6, including those relating to – <ul style="list-style-type: none"> • Cats; • Dogs; and • Horses, ponies, donkeys, and their hybrids.
Animal Welfare (Application) Order	Will apply section 13 (licensing or registration of activities involving animals) of the UK Animal Welfare Act 2006.
Animal Welfare (Licensing of Activities Involving Animals) Regulations	Will include provisions to regulate the private sale of puppies and kittens – commonly referred to as “Lucy’s law”. Once in effect it will ensure puppies and kittens are only purchased directly from a registered breeder, or by adoption from a rescue centre. This change is intended to prevent sale of animals for unregulated animal breeders (e.g. “puppy farms”) where animals are raised in poor conditions. The Regulations will also repeal and replace the Riding Establishments (Inspections) Act 1968, Animal Boarding Establishments (Isle of Man) Act 1973 or the Breeding of Dogs and Cats Act 1981 (“the Riding, Boarding and Breeding Acts”).
Animal Welfare (Definition of “Licence”) Order	Will amend the definition of “licence” in the Bill to reflect the Riding, Boarding and Breeding Acts.
Animal Welfare (Cruelty) (Application) Order	Will revoke the Cruelty to Animals act 1997 and replace it with applied sections of the UK Animal Welfare Act 2006, including sections 2, 4-8, 18-20, 22, 38 and 40. This will include provisions relating to the greater legal protections for service animals – commonly referred to as “Finn’s law”. Once in effect this legislation will ensure persons who injure service animals (e.g. police dogs and horses) will, upon conviction, face a higher criminal sanction than at present.
Animal Welfare (Kept Animals) (Application) Order	Will apply provisions of the UK Animal Welfare (Kept Animals) Bill. Particularly, this is intended to address sheep worrying by dogs.

Animal Welfare (Relevant Matters) Order	Will set out the matters “to which animal welfare is relevant and which concerns a person in relation to whom an entry is made in the Animal Welfare Register” under clause 13(8). No immediate requirement for the legislation.
Animal Welfare (Detention of Aircraft) Regulations	Will clarify the procedures for the detention of aircraft. No immediate requirement for the legislation.