



**Northern Ireland
Assembly**

Committee for Agriculture and Rural Development

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From: Stella McArdle,
To: Christine Darrah, Clerk to the Committee for Justice
Date: 21 October 2015
Subject: Increasing the maximum penalties available for offences committed under the Welfare of Animals Act 2011

1. At its meeting of 20 October 2015, the Committee for Agriculture and Rural Development considered correspondence from DARD indicating that it intends to amend the penalties provided for in section 31 of the Welfare of Animals Act 2011. The Department has proposed that it includes this provision in DOJ's Justice (No.2) Bill. Minister Ford has agreed to include the animal welfare provisions in the DOJ (No.2) Bill which he aims to have completed and passed by the end of the current mandate.
2. The Committee agreed to ask DARD to provide an oral briefing on the matter at the meeting of 10 November 2015. The Committee will write to you after that date, to inform you of its position on the matter.
3. I have attached a copy of the correspondence from DARD for your information.

Stella McArdle

Stella McArdle
Clerk, Committee for Agriculture and Rural Development



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Our Ref:
Your Ref:
Date: 14 October 2015

Dear Stella,

INCREASING THE MAXIMUM PENALTIES AVAILABLE FOR OFFENCES COMMITTED UNDER THE WELFARE OF ANIMALS ACT 2011

Purpose

This letter is to inform Committee Members that in line with Recommendation 1 from the Interim Report of the Review of the Implementation of the Welfare of Animals Act (NI) 2011 (the 2011 Act), DARD intends to amend the penalties provided for in section 31 of the 2011 Act.

The offences in the 2011 Act currently carry a maximum sentence of:

- (i) two years imprisonment and an unlimited fine on conviction on indictment; and
- (ii) six months imprisonment and a fine of up to £5,000 on summary conviction.

The proposed amendments will:

- (i) increase the maximum prison term to five years in the case of indictable offences;
- (ii) amend certain offences so that they become hybrid offences; and
- (iii) increase the maximum penalty available on summary conviction for two of the more serious hybrid offences to twelve months imprisonment and a £20,000 fine.

The Department's objective is to reflect the serious nature of such offences, and the amendments will provide some of the toughest penalties for animal welfare offences across these islands.

Current Position

Offences in the 2011 Act fall within two categories. Those offences deemed to be lesser offences are triable in the magistrates' court only. Convictions secured in this court are summary convictions and offenders are liable to receive a maximum sentence of imprisonment for a term not exceeding six months or a fine not exceeding level 5 on the standard scale (£5,000) or both.

More serious offences, such as animal fights, causing unnecessary suffering or administering poisons are hybrid offences, that is, they may be tried in either a magistrates' court or a Crown Court. Convictions secured in the Crown Court are convictions on indictment and offenders are liable to receive a maximum sentence of imprisonment for a term not exceeding two years, or a fine, or both.

At present the maximum period of imprisonment available in Scotland for certain offences is twelve months and in 2013 the ROI increased their maximum penalty for certain offences to a fine not exceeding €250,000 or imprisonment for a term not exceeding five years. In England and Wales the maximum penalty is 51 weeks imprisonment, however, as this is subject to commencement of section 281(5) of the Criminal Justice Act 2003, which has not been commenced, the current maximum is six months imprisonment.

Review and Consultation

In March 2014, the Northern Ireland Assembly debated and agreed a Private Members' Motion which called on the Minister of Agriculture and Rural Development, in conjunction with the Minister for Justice, to initiate a review of the implementation of the 2011 Act, particularly sentencing guidelines and practices, to ensure that the maximum effectiveness is being brought to bear to combat animal welfare crimes.

The Interim Report consultation closed on the 21 May 2015 and feedback was received from 54 respondents. There was substantial support from all respondents for Recommendation 1, "DARD considers increasing the maximum sentence on conviction of the more serious summary offences from six months to twelve months imprisonment and increasing the fine from £5000 to £20,000; and in the case of indictable offences considers increasing the maximum prison term from two to five years", and it was particularly well received by animal welfare charities.

Proposed changes

DARD propose to amend certain offences including breaching a disqualification order; selling or parting with an animal pending the outcome of an appeal to a deprivation order; and offences relating to images of animal fighting so they become hybrid offences. The Department also propose to increase the maximum terms of imprisonment for all animal welfare offences tried on indictment from two to five years.

In the case of unnecessary suffering and animal fighting, which are already hybrid offences, DARD propose to increase the current penalties on summary conviction to twelve months and/or a fine of £20,000. This will give effect to the recommendation from the Review as these represent the most serious offences under the 2011 Act and it is appropriate that the penalty available to magistrates' court reflect this.

DOJ Justice (No2) Bill

Following the public consultation, the recommendation in relation to sentencing will remain in the Final Report of the Review. Primary legislation will, however, be needed to implement this recommendation through amendments to the 2011 Act. Unfortunately, the required provision is not within the scope of any of the remaining DARD Bills currently before the Assembly and given the importance of this matter; the Minister is keen to avoid having to wait to bring forward the necessary provision in the next mandate. The Department has considered alternative options and has proposed that DARD include this provision in DOJ's Justice (No.2) Bill, which deals with fine collection and prison services and therefore the proposed amendments to maximum sentences should be within its scope. Minister Ford has agreed to include the animal welfare provisions in the DOJ (No.2) Bill which he aims to have completed and passed by the end of the current mandate.

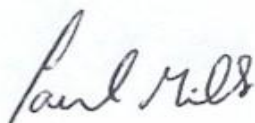
Minister O'Neill is very keen to implement this recommendation to both alleviate public concern around this issue and to ensure strong deterrents are in place for any acts of animal cruelty. She is keen to bring the amendments needed to sentencing contained in the 2011 Act forward through the DOJ Bill so that they can be introduced as soon as possible and would appreciate the support of the Committee in this matter.

Update on Review Final Report

Work is ongoing on completion of the Final report of the Review, with the four Working Groups on sentencing, working together and serving the public, equines, and dog breeding finalising their findings and recommendations. The Department hope to have the Final Report with the Committee by the end of this year.

I hope this is helpful.

Yours sincerely



Paul Mills
Departmental Assembly Liaison Officer