



Northern Ireland  
Assembly

Committee for Justice

# OFFICIAL REPORT (Hansard)

Justice (No. 2) Bill — Proposed Amendments to Increase  
Penalties in the Welfare of Animals Act (Northern Ireland)  
2011:

Department of Agriculture and Rural Development and  
Department of Justice

26 November 2015

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Justice (No. 2) Bill — Proposed Amendments to Increase Penalties in the Welfare of Animals Act (Northern Ireland) 2011: Department of Agriculture and Rural Development and Department of Justice

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**Members present for all or part of the proceedings:**

Mr Alastair Ross (Chairperson)  
Mr Raymond McCartney (Deputy Chairperson)  
Mr Sammy Douglas  
Mr Paul Frew  
Mr Seán Lynch  
Mr Alban Maginness  
Ms Bronwyn McGahan  
Mr Patsy McGlone  
Mr Edwin Poots

**Witnesses:**

Ms Jackie Robinson	Department of Agriculture and Rural Development
Mr Andrew McKnight	Department of Justice
Mr Billy Stevenson	Department of Justice
Mr Graham Walker	Department of Justice

**The Chairperson (Mr Ross):** I welcome Andrew McKnight from the criminal justice division; Graham Walker from the justice division and the Bill manager; Billy Stevenson from the criminal justice division in the Department of Justice; and Jackie Robinson, who is not the second baseman for the Dodgers but is the head of animal identification. Obviously, there are not too many baseball fans here. In your own time, please brief us quickly on this matter, and we will then open it up to questions that there may be.

**Mr Billy Stevenson (Department of Justice):** I have a few brief remarks to make, if that is OK. Thank you, Chairman, for the opportunity to brief the Committee on the proposed amendments to increase the penalties in the Welfare of Animals Act (Northern Ireland) 2011. The objective today is to update the Committee on the detail of the amendments that the Minister proposes to include in the Justice (No. 2) Bill and to seek your views. As you said, with me today is Jackie Robinson from the animal identification, legislation and welfare branch in DARD, who has worked closely with us on this. I will not introduce anybody else, if that is OK.

The Department has written to the Committee recently to outline the Minister's proposals, and, if you are content, I will quickly run through the key points of the proposed amendments and provide some background for members. The origin of the proposed amendments is a review of the implementation of the Welfare of Animals Act (Northern Ireland) 2011. DARD has policy responsibility for this legislation, but the review has been undertaken jointly by DARD and DOJ because of the criminal

justice angle. The review published an interim report in February for consultation, and our Ministers shared that report with the Justice Committee at that time. There were 54 responses to the consultation, and officials are working to finalise the review's recommendations. Work had already commenced on some of the recommendations that were supported during the consultation on the interim report, including increased penalties for certain animal welfare offences. The final review, report and action plan are to be published around the end of this year.

Turning now to sentencing, which is the main focus of today, you will be aware that the public concern about some sentences for people convicted of animal welfare offences is one of the reasons for the Assembly motion in 2014, after which Minister O'Neill commissioned a review of the implementation of the Welfare of Animals Act. The review included a consideration of the statutory maximum penalties in the current animal welfare legislation and the penalties available for similar offences in other jurisdictions. The interim review recommended that DARD consider increasing the statutory maximum penalties for more serious summary offences and for indictable offences. Minister O'Neill has endorsed the emergent findings of the review in relation to sentencing and, given the level of support during the consultation, has asked that the recommendations are implemented as soon as possible. The changes require primary legislation, and DARD has no suitable primary legislation to do that in this mandate. The proposed amendments are within the scope of the Justice (No. 2) Bill. The Justice Minister supports the increased penalties and has, therefore, agreed to carry the necessary amendments in the Justice (No. 2) Bill.

The two main means of prosecuting criminal offences are summary prosecution and indictable prosecution. A summary offence is an offence of a less serious nature that would be dealt with in the Magistrates' Court. An indictable offence is a more serious offence that must be dealt with at Crown Court. Offences that are triable either summarily or on indictment are referred to as hybrid offences. The draft amendments propose that the maximum penalty upon summary conviction for offences causing unnecessary suffering and animal fighting is increased from six months' imprisonment and/or a maximum £5,000 fine to 12 months' imprisonment and/or a maximum fine of £20,000. For conviction on indictment, it is proposed that the maximum period of imprisonment is increased from two years to five years. It is also proposed that the following summary offences are amended to make them hybrid — in other words, they may be triable in the Crown Court and subject to a higher penalty. They are supplying, publishing and processing with intent to supply photographs, images or video of an animal fight; breaching a disqualification order; and selling or parting with an animal pending the outcome of an appeal of a deprivation order.

In addition, it is proposed that the range of ancillary post-conviction powers available to courts following conviction for animal fighting offences are extended to be available following conviction for supplying, publishing or possessing with intent to supply photographs, images or video of an animal fight. This will, for example, give courts the power to confiscate an animal from an owner convicted of supplying images or video of an animal fight and to disqualify such persons from owning or keeping animals.

The policy changes reflected in the amendments have been considered by the Assembly's ARD Committee recently. In addition to increasing the maximum penalties, the Committee will also be aware that the Justice Minister intends to add animal welfare offences to the unduly lenient sentences scheme, which will further strengthen the law on animal cruelty. The animal welfare review is examining which specific offences should be added to the scheme. The proposals before the Committee today will allow increased penalties for serious animal welfare offences to be brought into force at the earliest opportunity, send a strong message that such offences will not be tolerated and ensure that Northern Ireland has amongst the toughest sentences available for animal welfare crime.

We are, of course, happy to answer any questions that you may have on this matter. Thank you.

*(The Deputy Chairperson [Mr McCartney] in the Chair)*

**The Deputy Chairperson (Mr McCartney):** Thank you very much, and sorry for the handover. The Chair had to go to do other business.

**Mr Douglas:** Billy, thanks for your presentation. Have you any idea how many people have been charged and how many have been sent to prison under the 2011 Act?

**Mr Stevenson:** Yes, we have. I will ask Jackie to take that question, because she has dealt with the legislation.

**Ms Jackie Robinson (Department of Agriculture and Rural Development):** I will surely. I can tell you that, to date, there have been 71 prosecutions. That does not include prosecutions taken by the PSNI, because I have been unable to get that information specifically for welfare. But I can tell you that, in total, there have been 115 convictions, of which 15 have ended in prison sentences.

**Mr Douglas:** Jackie, do you have any idea what length of sentences those people have got, or do you have even a flavour of that?

**Ms J Robinson:** I do not have an idea of that at the moment, but I can let you know in writing.

**Mr Douglas:** That would be very helpful. Thank you.

**Mr Poots:** I welcome the proposals — I did so on the Agriculture Committee — in so far as they go. But are we going to see people prosecuted and magistrates using their ability to actually implement this? Thus far, it has been kid gloves. Most of us look on with horror at the circumstance in Sammy's constituency, where the video was shown, the evidence was there on the television, and the public court disagreed vehemently with how the court treated those individuals. I welcome the Department of Justice and the Department of Agriculture and Rural Development working on these things together to bring forward stiffer sentencing, but we really want to see stiffer sentencing. Can you give us an indication that this will actually be used, or should we be looking at minimum sentencing for these guys if the courts are not prepared to step up to the plate? That is something for us to consider. I know that we have had a debate about minimum sentences, and some of the members here are less keen on it than others. If the courts are not going to come down hard on these guys, I would want to look at that.

**Mr Stevenson:** I know where you are coming from, and the origin of this work was, of course, the public perception that, in some cases, the convictions were too lenient. I have to say that judicial discretion is something that we will guard. We give the judiciary the powers, but it is up to it to deal with each individual case on the basis of the information and the prosecution that has come before it. Stiffer penalties are available here to the judges, and I think that the Minister hopes that, in time, those penalties will be used. That is why they have been put into statute.

*(The Chairperson [Mr Ross] in the Chair)*

**Mr Andrew McKnight (Department of Justice):** Just to add to that, there is some evidence that, going back before the 2011 Act, the maximum penalty was three months. There is evidence to suggest that, down the line, sentences being handed will be in excess of that. We seem to be moving in the right direction. We expect that, once the new penalties come in, it will take a period of time to bed those in and for them to settle down.

The review also considered the point on minimum sentencing, but we decided that we did not think it would be a good idea to fetter judicial discretion. Animal welfare is quite a broad issue, compared with some other offence types that carry a minimum sentence, and we thought that there were possibilities that somebody might end up with a minimum sentence for what might ultimately be a relatively minor offence.

**Mr Poots:** Is the guidance that goes with the legislation fairly clear for the judiciary?

**Mr McKnight:** There are sentencing guidelines available for some of the offences heard in the Magistrates' Court. I think that unnecessary suffering is one of those offences. They are reasonably clear, but I think that they are the offences that we are amending the maximum penalties for. Again, it may be the case that those sentencing guidelines would have to be reviewed again.

**Mr Poots:** Can you give a commitment on behalf of the Department that you will do that?

**Mr McKnight:** Sentencing guidelines are a matter for the judiciary. It should hopefully be able to review them.

**Mr Stevenson:** When we move some offences into the Crown Court, the guidelines will be the result of a Court of Appeal judgement. That would inform the guidelines. So it is a process that we are moving forward on, but it will take some time.

**Mr Graham Walker (Department of Justice):** I think that would happen as a matter of course, Mr Poots, with the sentencing guidelines. As the range of sentencing increases, the guidelines would obviously be amended to reflect that.

**Mr Poots:** I welcome your work on this. It is an area that badly needed it.

**Mr McCartney:** I want to add to that. A big part of this is down to sentencing guidelines, which, in that sense, are outside our control. Is work being done to ensure that whatever enforcement can be done can prevent the type of cruelty that we have seen?

**Ms J Robinson:** Yes. We need to go back and look at the enforcement bodies. Under the 2011 Act, there are three different enforcement bodies: the PSNI deals with crime involving animals; DARD deals with farmed animals; and councils deal with non-farmed animals. I think they all take their enforcement responsibilities very seriously, and what we are really talking about today is the very high end of what they deal with. On a day-to-day basis, they will visit where they think welfare is compromised. They have a series of measures that they can put in place, such as giving advice, putting in place formal and legal improvement notices or ultimately taking a prosecution if they need to. What we are looking at today is the very far end of the scale. We know that, through the legislation, there is a series of measures that those enforcement bodies can take and that we know work.

I have information on the number of calls and cases that the councils, for example, have taken — it is an awful lot. In excess of 700 improvement notices have been issued. That means that there are a large number of animals out there that are not suffering today. Those cases maybe never went to court, but those animals are not suffering. I see that as a very positive response to the 2011 Act.

**The Chairperson (Mr Ross):** Thank you very much.