

# **ANIMAL WELFARE (SERVICE ANIMALS) BILL**

---

## **EXPLANATORY AND FINANCIAL MEMORANDUM**

### **INTRODUCTION**

1. This Explanatory and Financial Memorandum has been prepared by the Department of Agriculture, Environment and Rural Affairs ('the Department') in order to assist the reader of the Bill and to help inform debate on it. It does not form part of the Bill and has not been endorsed by the Assembly.
2. The Memorandum needs to be read in conjunction with the Bill. It is not, and neither is it meant to be, a comprehensive description of the Bill. Where a clause or part of a clause does not seem to require an explanation or comment, none is given.

### **BACKGROUND AND POLICY OBJECTIVES**

3. The Bill provides for increased protection for service animals in Northern Ireland. In doing so, it aims to ensure that these animals are afforded the same level of protection as they are already provided with in other parts of the United Kingdom.
4. A campaign to provide greater protection for service animals began in England following an attack there in 2016 on a police dog named Finn who was stabbed and seriously injured whilst pursuing a suspect with his handler. Charges of criminal damage were brought in Finn's case as the relevant defendants were able to argue that they were justified in applying force against a service animal in self-defence and that, as a result, they had not committed the offence of causing unnecessary suffering to an animal.
5. This gave rise to widespread public concern that Finn had been treated like property and a campaign to create a new law that offered additional protection to service animals was launched. It culminated in the enactment of the Animal Welfare (Service Animals) Act 2019 which provides that the matter of whether someone causing harm to a service dog in England and Wales is protecting a person, property or another animal is to be disregarded when considering whether or not the harm was unnecessary. Similar provision for Scotland is contained in the Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Act 2020.
6. A campaign to introduce 'Finn's Law', as it is known, to Northern Ireland began in April 2018. An online petition attracted almost 45,000 signatories and the attention of local media. Following the resumption of devolved government in Northern Ireland in January 2020, a motion was tabled in the Northern Ireland Assembly calling on the Minister for Agriculture, Environment and Rural Affairs to introduce legislation in Northern Ireland similar to 'Finn's law'. The motion was subsequently debated and agreed by the Assembly on 10 February 2020 receiving cross-sectoral support.

7. Service animals in Northern Ireland carry out invaluable work that can take them into very unpredictable and often dangerous situations. They often need to restrain suspects or use their physical presence to support the actions of officers acting in accordance with their duties. Service animals can, therefore, in the course of their daily activities, be victims of violence and cruelty. There is, however, currently no account taken of the role performed by service animals in Northern Ireland under the Welfare of Animals Act (Northern Ireland) 2011 (the 2011 Act).
8. Section 4(1) of the 2011 Act provides that it is an offence to cause unnecessary suffering to an animal in Northern Ireland. In deciding whether the suffering caused to an animal is unnecessary, the 2011 Act provides that there are a number of factors which can be considered. Those factors include whether the suffering was caused for the purpose of protecting a person, property or another animal. The Bill provides that, as is the case in other parts of the United Kingdom, whether someone causing harm to a service dog was for the purpose of protecting a person, property or another animal is not a relevant factor when considering whether or not the harm was unnecessary.

## **CONSULTATION**

9. The Department carried out an eight week consultation exercise on the proposals contained in the Bill between 17 June and 11 August 2021 using an online survey tool. A total of 47 responses were received from a wide range of consultees including the Police Service of Northern Ireland (PSNI), Northern Ireland Prison Service, the Search and Rescue Dog Association Ireland North as well as a number of animal organisations, charities, local councils and individuals.
10. Nearly all respondents supported the proposal to provide additional protection for service animals in Northern Ireland. Most respondents agreed that, where a service dog is injured on duty, there should be no requirement to consider whether the conduct that caused the suffering was carried out in order to protect a person, property or another animal.
11. The vast majority of respondents agreed with the Department's proposals regarding those animals that should be given additional protection, namely PSNI dogs, prison dogs or Harbour, Airport or Ministry of Defence Police dogs as well as any dogs engaged for wider policing or prisoner custody purposes. Likewise, a significant majority of respondents also agreed that the Department should have the power to add to the services whose animals are to be given additional protection under the Bill.
12. Most respondents considered it necessary to increase the penalties for causing unnecessary suffering to a service animal. The Bill does not, however, make provision for increased penalties. Any changes to animal welfare penalties require further detailed consideration in conjunction with the Department of Justice and a separate public consultation.
13. The Department's response and analysis to the consultation can be viewed on its website: [Consultation on additional protection for service animals in Northern Ireland](#)

## **OPTIONS CONSIDERED**

14. A number of options were considered in respect of the animals within the proposed scope of the Bill. Consideration was given to whether search and rescue dogs used by private companies or voluntary organisations and guide dogs should come within the ambit of the added protection afforded by the Bill. It was noted that these dogs tend to operate in a passive and non-confrontational way. As such, it was considered unlikely that these dogs would be involved in confrontational situations where individuals would attack them in order to protect themselves. The Department, therefore, concluded that these animals should not automatically come within the ambit of the proposed protections. In this regard, it noted that these animals are not within the scope of the added protection given to service dogs in other parts of the UK. Under the provisions of the Bill, any search and rescue dogs engaged for police purposes will be afforded added protection in any event.
15. Dogs are currently the only type of animal used as service animals in Northern Ireland. The Department, therefore, considered whether the protection to be afforded by the Bill should be confined to this species of animal. It determined that any added protection given should be broad enough to apply to all species of service animal and that this should ensure adequate flexibility in the event that other animals are deployed to service duties in the future. In coming to its decision, the Department noted that the law in other parts of the UK is similarly framed to provide protection to service animals generally.

## **OVERVIEW**

16. The Bill contains two clauses. It amends the 2011 Act to provide enhanced protection to service animals in Northern Ireland.

## **COMMENTARY ON CLAUSES**

### **Clause 1: Amendment of the 2011 Act**

Section 4(1) of the 2011 Act provides that it is an offence to cause unnecessary suffering to an animal. In deciding whether the suffering caused to an animal is unnecessary, section 4(3) of that Act provides that there are a number of factors which can be considered. This includes whether the suffering was for the legitimate purpose of protecting a person, property or another animal - section 4(3)(c)(ii).

Clause 1 inserts a new section 51A into the 2011 Act which in effect provides that section 4(3)(c)(ii) cannot be relied upon by the defendant if:

- (a) the animal to which suffering was caused was under the control of a relevant officer at the time of the conduct that caused the suffering to the animal;
- (b) the animal was being used by the officer at that time in the course of the officer's duties in a way that was reasonable in all the circumstances; and

- (c) the defendant accused of causing the animal suffering is someone apart from the officer.

The new section sets out who a ‘relevant officer’ is, which in turn determines what a service animal is (as this is an animal used by such an officer). A ‘relevant officer’ is specified as a constable, a person who is employed for police purposes or is engaged to provide services for police purposes or a prison custody officer within the meaning of Chapter 3 of Part 8 of the Criminal Justice and Public Order Act 1994. The term ‘constable’ here is as defined in section 43A of the Interpretation Act (Northern Ireland) 1954 (the 1954 Act), and this includes certain persons in addition to PSNI officers. This brings in the Harbour or Airport Police and the Ministry of Defence Police, but members of the Naval, Military or Royal Air Force Police are excluded in the new section. The definition in section 43A of the 1954 Act also brings into the new section persons who have the powers of constables, and prison officers notably fall within this description.

The clause provides the Department with the power to make regulations to amend the definition of ‘relevant officer’. It expressly provides, however, that only a person in the public service of the Crown may be specified in the definition.

#### **Clause 2: Commencement and short title**

This clause provides that the Bill will come into operation on the day after Royal Assent. The clause also specifies the short title of the Bill.

### **FINANCIAL EFFECTS OF THE BILL**

17. The Bill will not place any additional financial burden on the public purse, businesses or the third sector.

### **HUMAN RIGHTS ISSUES**

18. The provisions of the Bill are not, in the Department’s view, incompatible with the provisions of the Human Rights Act 1998.

### **EQUALITY IMPACT ASSESSMENT**

19. Under the terms of section 75 of the Northern Ireland Act 1998, the Department carried out screening for equality impact and is satisfied that the provisions in the Bill will not lead to any discriminatory or negative differential impact on any of the section 75 groups.

### **SUMMARY OF THE REGULATORY IMPACT ASSESSMENT**

20. The Bill has been assessed to determine any regulatory impact and it is considered that it does not contain any provisions that will result in an increased or adverse impact on businesses, charities or the community and voluntary sectors.

## **RURAL NEEDS IMPACT ASSESSMENT**

21. The Bill has been assessed to determine any impact on people in rural areas and it is considered that it does not contain any provisions that will result in people in rural areas being treated differently from people in urban areas.

## **LEGISLATIVE COMPETENCE**

22. At Introduction the Minister of Agriculture, Environment and Rural Affairs had made the following statement under section 9 of the Northern Ireland Act 1998:

*“In my view the Animal Welfare (Service Animals) Bill would be within the legislative competence of the Northern Ireland Assembly.”*







Northern Ireland  
Assembly

Published by the Northern Ireland Assembly under the Open Northern  
Ireland Assembly Licence (<http://data.niassembly.gov.uk/licence.aspx>)

The information contained in this document is available online  
[www.niassembly.gov.uk](http://www.niassembly.gov.uk)

For more information please contact:

Northern Ireland Assembly  
Parliament Buildings  
Ballymiscaw  
Stormont  
Belfast BT4 3XX

Telephone: 028 90 521137

Textphone: 028 90 521209

E-mail: [info@niassembly.gov.uk](mailto:info@niassembly.gov.uk)

**ISBN: 978-1-78619-494-7**