

PARLIAMENTARY DEBATES

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OFFICIAL REPORT

Sixth Delegated Legislation Committee

DRAFT ANIMAL WELFARE (PRIMATE LICENCES)
(ENGLAND) REGULATIONS 2023

Wednesday 31 January 2024

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The Committee consisted of the following Members:

Chair: PETER DOWD

Ali, Tahir (*Birmingham, Hall Green*) (Lab)
Butler, Dawn (*Brent Central*) (Lab)
† Edwards, Ruth (*Rushcliffe*) (Con)
† Fletcher, Colleen (*Coventry North East*) (Lab)
† Grayling, Chris (*Epsom and Ewell*) (Con)
† Green, Chris (*Bolton West*) (Con)
† Johnson, Kim (*Liverpool, Riverside*) (Lab)
† Loder, Chris (*West Dorset*) (Con)
† Nici, Lia (*Great Grimsby*) (Con)
† Penrose, John (*Weston-super-Mare*) (Con)
Ribeiro-Addy, Bell (*Streatham*) (Lab)

† Robinson, Mary (*Cheadle*) (Con)
† Spencer, Mark (*Minister for Food, Farming and Fisheries*)
† Sturdy, Julian (*York Outer*) (Con)
† Tuckwell, Steve (*Uxbridge and South Ruislip*) (Con)
Winter, Beth (*Cynon Valley*) (Lab)
† Zeichner, Daniel (*Cambridge*) (Lab)

Zereena Arshad, *Committee Clerk*

† **attended the Committee**

Sixth Delegated Legislation Committee

Wednesday 31 January 2024

[PETER DOWD *in the Chair*]

Draft Animal Welfare (Primate Licences) (England) Regulations 2023

2.30 pm

The Minister for Food, Farming and Fisheries (Mark Spencer): I beg to move,

That the Committee has considered the draft Animal Welfare (Primate Licences) (England) Regulations 2023.

It is a pleasure to serve under your chairmanship, Mr Dowd. The draft regulations were laid before the House on 14 December.

It is estimated that up to 5,000 primates are kept as pets in England. These wild animals have complex welfare and social needs, and most people lack the expert knowledge required to care for them properly. Material submitted in response to the Government's call for evidence in 2019 confirmed that pet primates are sometimes kept in very poor welfare conditions. Charities and rescue centres have confirmed that primates transferred to them have often been diagnosed with physical and behavioural problems, including broken bones, malnourishment and hyper-aggression, resulting from poor private keeping. Enforcement action by local authorities can be limited by the lack of awareness of where most primates outside zoos are kept.

The Government's 2020 consultation exercise, "Primates as pets in England", confirmed overwhelming support for prohibiting the private keeping of primates without a relevant licence, with more than 98% of the 4,516 responses expressing support. The subsequent consultation in 2023 reconfirmed strong support, with 97% of the 643 responses welcoming the fact that the proposed welfare requirement standards include breeding, handling, veterinary care and environmental considerations.

The Animal Welfare Act 2006 already makes it an offence to cause unnecessary suffering to a kept animal, or to fail to provide for a kept animal's welfare needs, but the Government are committed to enhancing welfare standards further. The regulations will provide additional protection for primates by ensuring that it will no longer be possible to keep them in domestic settings as household pets and in environments that fail to provide for their needs.

This statutory instrument, introduced under section 13 of the 2006 Act, establishes a licencing scheme that sets strict rules to ensure that only private keepers who can provide high welfare standards, akin to those of a licensed zoo, will be able to keep primates. The SI explains how applications for primate licences are to be made, how local authorities are to determine whether to grant a licence application, and how licences are to be renewed, varied or surrendered. The SI also provides local authorities with powers to serve rectification notices and to revoke or vary primate licences.

Existing and prospective keepers of primates in England will be required to be licensed by local authorities from 6 April 2026, except where the primates are being kept under a licence granted under the Zoo Licensing Act 1981 or the Animals (Scientific Procedures) Act 1986. Local authorities will issue private primate-keeper licences only to those who can meet the welfare standards set out in the regulations, which are akin to those of licensed zoos. Anyone who keeps a primate in England will be required to have such a licence, and if they do not, they will be committing an offence under section 13(6) of the 2006 Act and will be liable on summary conviction to imprisonment for a term of up to six months, an unlimited fine, or both.

Keepers and prospective keepers will need to apply for a private primate licence from the local authority in whose area the primates are kept. Licences will be valid for a maximum of three years and will be granted only by a satisfactory inspection conducted by the relevant authority. Licence holders must undergo reassessment to renew their permission to keep the animals, and inspectors will assess record keeping, the provision of emergency arrangements, care and maintenance, nutrition and feeding, physical health, environmental behaviour, handling and restraint, and transport and breeding, as well as the conditions in which the animals are kept. Guidance will be provided that sets out the detailed welfare standards to be met.

The SI will not apply to anyone who holds a zoo licence under the 1981 Act, or a Home Office scientific procedures licence under the 1986 Act. Separate standards already exist for those. It will, however, apply to all primates currently licensed under the Dangerous Wild Animals Act 1976 and the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018. The SI will apply to England only and will come into force on 6 April 2026. That will provide existing keepers with two years from the SI being made to reach compliance with the licensing conditions. I commend it to the Committee.

2.35 pm

Daniel Zeichner (Cambridge) (Lab): It is a pleasure to serve with you in the Chair, Mr Dowd.

I thank the Minister, as ever, for his full introduction. I assure the Whips that we will not oppose the draft SI, but I have a few things to say, because it is an unusual one. The Minister did not mention this, but it has been lifted largely from the Animal Welfare (Kept Animals) Bill of more than two years ago—helpfully, I found the bundle from a couple of years ago in my desk. We considered that Bill in great detail, with evidence from a number of organisations in Committee, and we had the capacity to amend it in a way that we do not today.

An odd precedent is set by lifting legislation from a Bill, which can be properly debated, amended and voted on, and putting it into secondary legislation, which clearly does not get that level of scrutiny, although I will do my best. In passing, I also point out that it sets an interesting precedent for any possible future Administration who might wish to amend the Animal Welfare Act without introducing primary legislation. I am sure Members understand that code.

That brings me to my first question to the Minister: why has this been done in this way? Is he, as an esteemed former Leader of the House, comfortable with it? Will he explain what is meant in the explanatory memorandum, at paragraph 7.3, by “scope creep”, which is given as the reason for the kept animals Bill being withdrawn? Who decided it should be withdrawn? What was coming into scope that so worried the Government? Many of us have heard the rumours of what that might have been, but perhaps the Minister will enlighten the Committee as to why the process was undertaken. A lot of work was done on the Bill: we were in Committee for many days, it got all the way through Committee and it was ready to go. As I have said previously in debates on animal welfare legislation emanating from that Bill, the suffering that animals have endured has been prolonged because the Government failed to act two and a half years ago.

The explanatory memorandum is brief, but the draft regulations themselves run to some 17 pages. The Minister has given us a good account of them. I do not intend to go through them line by line—as I am sure the Committee is pleased to hear—as I would have done in a Bill Committee, but I will make some significant points and ask some questions.

I will start by quoting from the excellent briefing provided by a collection of non-governmental organisations—Born Free, the Humane Society International, the Royal Society for the Prevention of Cruelty to Animals, the UK Centre for Animal Law, Wild Futures and Wildlife and Countryside Link—which states:

“In the press release that accompanied the draft Regulations, the Government repeated its claim that ‘Keeping primates as pets will be banned under new legislation introduced by the Government today (14 December), improving the welfare of thousands of animals’. However, the Regulations do not ban the keeping of primates as pets, but rather introduce a licensing scheme for primate keepers. It is important that Government messaging is clear and honest in this regard.”

Will the Minister confirm that this is indeed a broken manifesto promise? The Government are not banning the keeping of primates as pets. Frankly, it is about as accurate as saying that they have banned the sale of alcohol—that is licensed. The Government should be saying as much. There is widespread disappointment that this is not a ban, and I suspect that is the point of the message that Committee members may have received, as I did last night, from Professor Stuart Semple:

“I am writing to express the very strong support from the Primate Society of Great Britain (of which I am President) for the attached letter voicing concerns about the Animal Welfare (Primate Licences) (England) Regulations 2023” —

he is referring to that collective NGO paper.

To cheer the Minister up a bit, the NGO paper goes on to state:

“Nevertheless, we hope that the proposed Regulations, if implemented effectively and accompanied by strict guidance designed to deliver the Government’s stated intention to restrict who can keep primates to those who meet ‘zoo level standards’, should reduce the suffering of many primates.”

We agree—if that is to happen, it needs to work.

A problem was identified in Committee that I discussed at some length with the Minister at the time: what happens to those animals for which no licence is applied? Are they then held illegally? There was extensive evidence from those who run animal rescue centres and we were

advised that there is not capacity in such centres. Are those animals euthanised? Clearly no one wants to see that, either. The NGOs rightly point out that whereas in the previous Bill there was a so-called transition period and a so-called grandfather clause, that has now gone. Will the Minister explain why, and how that will be resolved?

Let me pose a series of questions posed by the RSPCA in its briefing. On regulation 9, it queries the point about grandfather rights—rather more elegantly than I have done—and asks why the Government withdrew the clause and what steps the Government will take to ensure that there is a framework for local authority enforcement officers, animal welfare organisations and primate sanctuaries to manage the SI’s implementation and ensure the welfare of the thousands of primates who will all need to be rehomed if the Government are to achieve their stated intention of restricting primate keeping to those who meet zoo-level standards.

On paragraph 1 of schedule 1, the RSPCA asks for clarity on the definition of

“any other individual who is suitably qualified to provide that advice or guidance”.

That was also raised in debate in Committee. It is important that the guidance accompanying the regulations clearly specifies what constitutes a “suitable qualification” both for veterinarians and for other individuals. We know that there is a shortage of vets, and there is a live discussion around the possible role of others who might assist them, so it is an important point on which the Minister could provide clarity.

Paragraphs 45 to 48 of schedule 1 specify conditions for breeding, on which the RSPCA makes a strong point. It opposes the provisions because it believes that the breeding of primates, even under high welfare conditions, will encourage the keeping of primates, which is something that the SI is intended to prevent. I agree with the RSPCA. It goes back to that manifesto promise to ban the keeping of primates as pets. Will the Minister explain why there are now provisions to allow breeding?

In paragraphs 25 to 37 of schedule 1, reference is made to “appropriate natural behaviours”, “appropriate social groups” and “suitable...spatial dimensions” that achieve the “zoo-level standards” promised by the Government. Maybe the Minister can tell us what “appropriate” and “suitable” mean. That detail had been expected to appear in regulations—but these are the regulations. Can we expect the detail in the guidance—which of course is not subject to scrutiny—or do we expect further regulations to be issued? If so, will they be subject to the affirmative procedure? In other words, previously such details would have been scrutinised; are they now to be hidden?

Paragraphs 24, 39 and 42 of schedule 1 allow primates to be removed from their enclosures, handled and transported so that they can be exhibited. Again, the RSPCA and others oppose the derogations which, as they rightly say, fly in the face of the stated intentions of the regulations.

There is much, much more, Mr Dowd, but I fear I risk trying your patience. The Bill had an impact assessment, which included a whole section on the keeping of primates. As far as I can see, the regulations have no such impact assessment. Will the Minister explain why? Does he

[Daniel Zeichner]

really think that councils, in their current state, have the capacity to do what is being asked? In many cases, frankly, I doubt it. I remember in Committee pitying the poor council officer who finds a primate dumped at the desk on a Friday afternoon. That is the reality for the people on the frontline, which is why these questions matter.

Overall, in my view it is a pretty poor show—a long delay for no properly explained reason, and now what seems to me to be a rushed job which leaves too many questions unanswered. We do not oppose the regulations not because we approve, but because we know that action is needed: too many animals are suffering because of the delays. I urge the Minister to get on with it, but to set the standards very high so that, in effect, we genuinely do end the keeping of primates as pets, while also finding a way to deal with those that should never have been held as pets in the first place.

2.44 pm

Mark Spencer: I thank the hon. Gentleman for giving us an example of this legislation receiving scrutiny—something that he accused the Government of not wanting, although we are here today to scrutinise it. As he indicated, it is a manifesto commitment to ban the keeping of primates as pets, which is what the legislation delivers.

What the hon. Gentleman is indicating is a banning of primates from the UK. The SI is about making sure that any primates that are here in the UK are kept in appropriate, zoo-level conditions. That means that someone cannot keep such an animal as a pet in their house or garden: they have to keep it in a condition that is equivalent to how it would be protected and looked after in a professional zoo. That is what the licensing process does and why we are asking those people who have those animals to register them.

Those people have time to get to the right standards or to find alternative accommodation for their primates. They have two years to comply with this legislation. We will help and support local authorities with guidance to make sure that they are aware of the standards and the work that needs to be undertaken. Of course, there is

the ability to recover from the licence holders the full cost of licensing, meaning that those people who have a primate at home will have to pay the licence fee to the local authority, so the local authorities will not be out of pocket.

Daniel Zeichner: Will the Minister give some indication as to what estimate has been made of the costs that local authorities would be entitled to try to recoup? To go back to an earlier point, the grandfather clause that was in the previous legislation but is not here now was one way of trying to deal with the interim period.

Mark Spencer: We recognise that existing primate keepers will not immediately be able to provide zoo-level standards. To be clear, we do not expect them to do that, which is why there is a two-year implementation period, as I said. That gives them sufficient time to make the changes.

During the implementation phase, we will work with local authorities, with zoos and with the rescue sector to identify suitable rehoming facilities for primates and to foster network building among those groups. We will engage with the sector and continue to understand its positions to determine how it can be supported effectively to meet potential future demand for services. It will be down to local authorities to set the licence fee to make sure that they are not out of pocket, and we will help and support them on that journey to make sure that they get to the right level.

I hope that I have answered the hon. Member's questions and concerns. I know that the Opposition share my conviction about the need for this instrument, and it is clear from this debate that animal welfare matters to the House. As I have outlined, the instrument establishes a licensing scheme, setting strict rules to ensure that only private keepers who can provide the high animal welfare standards required, akin to those provided by a licensed zoo, will be able to keep primates. I commend the regulations to the Committee.

Question put and agreed to.

2.48 pm

Committee rose.