

Exhibited Animals Bill 2015

Response to the report by the Agriculture and Environment Committee

Recommendations

Recommendation 1

The committee recommends that the Bill be passed with the amendments proposed in this report.

Government position: The Government thanks the Committee for its consideration of the Bill and notes its advice that the Bill be passed.

Recommendation 2

The committee recommends that the Bill be amended to specify that a 'regular enclosure' at a 'regular enclosure site' need not be open generally to the public: provided the exhibitor a) still meets the exhibitor's minimum exhibition requirements; and b) that the enclosure is assessed and meets required standards for the relevant authorised animal.

Government position: Agree for category C animals with a lower pest establishment risk only.

Requiring animals that pose a pest establishment risk (category C authorised animals) to be based in a fixed exhibit appropriately reflects the increased risks associated with mobile exhibition of these species. It also reflects that higher establishment costs for, and public oversight of, fixed exhibits help reduce the likely incidence of non-compliance and compliance monitoring costs.

However, the severity of the pest establishment risk posed by Category C species varies. The Government proposes to amend the Bill to allow the lower pest establishment risk category C animals to be prescribed by regulation which would not need to be based in a fixed exhibit.

Recommendation 3

The committee recommends that the Bill be amended by removing clause 76 (4) in relation to the minimum three hour on each occasion restriction, and adopting in its place the same 'separate occasion' provision as at clause 75(6).

Government position: Agree for species prescribed by regulation as lower risk category C animals only. Any length of exhibit of such species could be counted against the minimum exhibition requirement.

Recommendation 4

The committee recommends that the Bill be amended at clauses 76 (2) and (3) to reduce the minimum annual hours to 50 hours in each calendar month and 600 hours in the year.

Government position: Agree.

Recommendation 5

The committee recommends that the Bill be amended to provide an exemption to clause 75 and 76 for reasonable circumstances where: an animal is temporarily not suitable for exhibit; where exhibit may impact on relevant risks and adverse effects; or where an animal is acquired for a limited number of defined circumstances relevant to, but not directly involved in, exhibition (e.g. breeding program, companionship for another exhibited animal, requires prolonged handling/training in preparation for exhibit).

Government position: Agree in principle.

It is proposed to provide a requirement for prolonged handling or training as an example of a circumstance in which a special condition may be imposed on an exhibited animal authority under subclause 77(5).

Clause 85 already provides that the relevant offence is not committed if the holder has a reasonable excuse and that it is a defence to prosecution if there is a signed veterinary certificate stating that it was necessary (to contravene the minimum exhibition requirement) to prevent or minimise a relevant risk or relevant adverse effect associated with exhibiting or dealing with an authorised animal.

Clause 75 and 76 only impose a requirement at species level, so that not every animal of the species must be exhibited for the required periods. This would accommodate acquiring an animal to provide companionship to an exhibited animal and many other circumstances where an animal might need to be kept without display.

Recommendation 6

The committee recommends that the department considers alternative licencing requirements such as the tiered 'proportionate to risk' application and approval process implemented under the Environmental Protection Act 1994, and considers amendment of the Bill to limit the regulatory impact on authority holders associated with the proposed requirement for a management plan for all species of exhibited animal.

Government position: Agree in principle. The Bill already provides for the management plan to be proportionate to risk by requiring that the management plan only details significant relevant risks and relevant adverse effects and how these will be minimised. The department will develop template management plans that an exhibitor can adopt for very commonly kept species if they are willing to exhibit and deal with their animals and manage the associated risks in the way proposed. An amendment to the Bill is not required to authorise the development of template management plans.

Recommendation 7

The committee recommends that the department clarifies the use of 'significant relevant risks and adverse effects' and 'relevant risks and adverse effects' within the Bill to ensure a clear and precise interpretation of an authority holders' obligations and demonstration of compliance.

Further the committee recommends that the department develops application guidelines to assist authority holders undertake risk assessments of their activities, and develop appropriate management plans where necessary.

Government position: Agree.

The department is committed to providing information to assist and guide exhibitors in meeting the requirements of the Bill.

Subclause 37(e) will be amended to require that a management plan state the ways in which the applicant intends to prevent or minimise the significant relevant risks and significant relevant adverse effects identified the plan under 37(d).

The general exhibition and dealing obligation requires an exhibitor to prevent or minimise all relevant risks and relevant adverse effects whereas they only need to detail in their management plan how they will minimise the significant relevant risks and relevant adverse effects. The Bill is intended to provide a comprehensive framework to manage the animal welfare, biosecurity and safety risks associated with exhibiting and dealing with potentially thousands of species of exhibited animals. It is neither possible nor desirable to specifically identify every relevant risk or relevant adverse effect that is significant.

Requests for clarification and assurances

The Committee has invited the Minister to:

- 1. inform the House how his department will consult animal exhibitors, including mobile exhibitors not represented by a peak body, during the development of regulations, guidelines, codes and template documents related to the provisions of the Bill.*

In this industry it is relatively easy for the department to communicate with all authority holders. This ameliorates some of the difficulties posed by some sectors of the industry not being represented by a peak body – an invitation can be issued to all exhibitors to comment on a proposal. Typically the department uses email for this purpose. Industry will be consulted in this way at important steps in the implementation of the Bill, including during the development of regulations, guidelines, codes and template documents related to the provisions of the Bill.

However, it would be inefficient for the department and exhibitors to consult with every exhibitor in detail at every step in the development of regulations, guidelines, codes and template documents. Many exhibitors are small businesses who cannot be available for meetings on a regular basis. The department has two approaches to address this challenge:

- The department established the Exhibited Animals Industry Liaison Group in 2013 to provide a forum for detailed discussion of issues affecting the industry. This group comprises three fixed exhibitors and one mobile exhibitor, representing an informal network formed in 2013 consisting mostly of mobile wildlife demonstrators, as well as a representative of the RSPCA. This group would likely be used to help refine proposals before wider consultation.

- The department trialled allowing any exhibitor to self-nominate for a full day industry workshop held to discuss a working draft of the former Exhibited Animals Bill 2014. Subject to the time constraints for finalising the regulations, the department intends to hold a similar workshop with industry nominees on a working draft of the regulations.
2. *clarify the intent and meaning of 'exhibit' and 'private event' in the Bill and to confirm whether the exhibit of an animal by a mobile demonstrator is considered an 'exhibit' that satisfies the minimum exhibition requirement.*

The exhibit of an animal by a mobile demonstrator would be considered an exhibit for the minimum exhibition requirement for a category C animal under clause 76 (rather than a 'private event') where it was open to the public. For example, a display at a community event could be counted against the minimum exhibition requirement. So also could a show that was open to the public on payment of a fee, such as a publicly advertised circus performance. In addition, a private event, such as a display at a children's birthday party to which entry was by invitation only, could be counted for the minimum exhibition requirement for a category B animal under clause 75 provided it did not occur at the regular enclosure site.

3. *assure the House that the department will consult with animal exhibitors before prescribing any matters by regulation for clause 218.*

The government would consult with exhibitors before prescribing matters by regulation for clause 218. The Regulatory Impact Statement system would generally require public consultation if such a regulation were to be prescribed. It is not currently proposed to prescribe any matters by regulation for clause 218.

	Paper No.: 5515T452	
	Date: 21-5-15	
	Member: Hon Byrne	
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