

An analysis of the Kept Animals Bill: Importation

By Molly O'Donoghue, Law Graduate & A-LAW Volunteer

"[W]e will legislate to:

- Reduce the number of pet dogs, cats and ferrets that can be moved under the pet travel rules which apply to non-commercial movements, in order to prevent unscrupulous traders from exploiting our pet travel rules.*

- Bring in powers which enable us to go further, to:*

- Increase the minimum age that dogs can be non-commercially moved or commercially imported into Great Britain.*

- Restrict the ability of unscrupulous traders to move heavily pregnant dogs into Great Britain both commercially and noncommercially.*

- Prioritise the health and welfare of dogs by prohibiting the importation and non-commercial movement of dogs into Great Britain that have been subject to low welfare practices, such as ear cropping or tail docking, in line with our domestic legislation on these practices."*

- DEFRA Action Plan for Animal Welfare, p.14

The Bill proposes to reduce the maximum number of animals that can be transported under PETS in a motor vehicle to five. The number of animals that can be imported into GB through

other means of transportation is reduced to three. Currently, PETS permits five dogs to travel *per person* into the UK. This means that 10-15 dogs can enter the UK in one vehicle with two or three individuals. Compounding this, dealers are able to repeatedly travel under PETS because there is no record kept of which dogs are moved. These shortcomings enable unscrupulous dealers to make substantial profit with relative ease, significantly facilitating the illegal puppy trade. The Dogs Trust has estimated that some dealers made over £100,000 per year by transporting dogs every week under PETS, well before the prices for some breeds reached a record high in 2020. The Government's plan to restrict the number of puppies that can travel under PETS to five per non-commercial consignment is therefore a step in the right direction. Presumably, the intention is to enable families to travel with their pet whilst protecting against the smuggling of puppies under the guise of owned pets. Relatedly, the Bill empowers Ministers to make provision for the keeping records or information, which could prevent repeat travel under PETS.

The Bill includes powers for the Government to bring in further restrictions on the movement of pets on welfare grounds. For instance, in 2012, changes were made to PETS to harmonise the regime with the rest of Europe, and it became possible to legally import puppies into the UK at fifteen weeks or older, compared to the previous minimum age of ten months. The number of dogs entering GB under PETS increased by 61% in the first year following the relaxation in the age requirement, suggesting that unscrupulous dealers began taking advantage of the new regime. The Bill empowers ministers to increase the minimum age that dogs can be imported into the country through regulation. This will make importing puppies less lucrative and make it easier to spot underage pups being brought into the country.

Despite it being illegal to transport a pregnant dog in the last 10% of her pregnancy, pregnant bitches are being imported into GB, so that their puppies can be sold at a younger age as 'born in GB'. The Bill empowers ministers to make regulations further prohibiting/restricting the movement of pregnant bitches.

Welfare organisations such as the RSPCA are



reporting a stark increase of dogs coming into their care with mutilations such as cropped ears. Cropped ears are becoming more desirable due to a growing number of celebrities owning them. Ear cropping is painful and unnecessary. The only reason that dogs have their ears cropped is aesthetic – it makes them look more intimidating. Ear cropping is detrimental to dogs' health, behaviour, and welfare both in the short-term and in the long-term, particularly because it may negatively affect their hearing, and cause difficulties with communication and body language. Ear cropping is illegal in the UK; however, it is not an offence to import a dog with cropped ears if its ears were cropped in a country where the practice is legal. Thus, it is welcomed that the Bill specifically empowers the Government to make regulations restricting the import of these dogs and dogs with other mutilations, such as docked tails, or any other procedure which involves interference with the sensitive tissues or bone structure of the animal, otherwise than for the purpose of its medical treatment.

The pandemic has further highlighted the need

for robust regulation and enforcement in relation to illegal importation; with demand soaring, more puppies are being imported than ever before. The Dogs Trust rescued 140 illegally imported puppies through their 'Puppy Pilot' scheme between March and September 2020, a 63% increase from the same period in 2019. Where puppies are seized at the borders, the owner can reclaim the puppy by paying the quarantine fees, and then sell the puppy on for profit. Prior to lockdown, reclamation rates by owners were steady at around 5%. During lockdown, however, upwards of 90% of puppies being reclaimed for resale. Through the Puppy Pilot scheme, the Dogs Trust provides invaluable support to the agencies on the ground at ports by funding the care of seized puppies and bitches, as there are insufficient resources available to cover staffing and quarantine costs. However, the Dogs Trust cannot feasibly run this operation across all UK ports, nor should they be expected to. Thus, it is welcomed that the Bill empowers the Government to make provision about relevant animals that are seized and detained by virtue of having been unlawfully imported, in particular, provi-

sion enabling ownership of a relevant animal to be transferred in specified circumstances.

Illegal puppy importation is a trade that is susceptible to the involvement of organised crime groups. The primary reason for this is that it returns a high profit and is low risk, with the maximum sentence under PETS, if caught, being three months imprisonment. When compared with the maximum sentence for smuggling cigarettes, seven years, puppy importation is an attractive option for criminals. The woefully inadequate penalties mean that criminals involved in illegal puppy importation are unfazed. Brexit provided a crucial opportunity for the Government to introduce tougher penalties deter these criminals, and this Bill appears to be an attempt at this as it enables the Government to make regulations permitting monetary penalties to be imposed in cases involving the contravention of any enactment that relates to animal welfare or animal health and is concerned with the importation of relevant animals. Additionally, the Bill provides that Ministers can enact regulations creating criminal offences in relation to the importation of puppies and dogs that breach the relevant regulations. Where this occurs, the provision must have the effect that the offence is 1. triable summarily only, or 2. triable summarily or on indictment; the offence is punishable only 1. with a fine, or 2. with a term of imprisonment or a fine (or both); any term of imprisonment with which the offence is punishable on summary conviction does not exceed 1. in England and Wales, the relevant maximum term; 2. in Scotland, 12 months; any term of imprisonment with which the offence is punishable on 30 conviction on indictment does not exceed 5 years.

The Bill empowers the Government to confer functions on 'specified persons', including powers of inspection, search, seizure or detention (whether or not on the authority of a warrant) as well as powers of entry (regulations may only confer a power of entry to a private dwelling without the consent of the occupier, or with the use of reasonable force, on the authority of a warrant issued by a justice of the peace in England and Wales, or the authority of a warrant issued by a sheriff or a justice of the peace in Scotland) and monetary penalties. This has the potential to assist with enforcement, provided such powers are conferred to the appropriate

people/organisations. Moreover, the Bill enables Ministers to make provision for the revocation of a person's licence, authorisation, or other approval required by or under any enactment for the importation of relevant animals, where: 1. the person contravenes a provision of the regulations, or 2. the person obstructs, or fails to assist in, the exercise of a function conferred by the regulations.

Postscript: On 21st August 2021, DEFRA announced¹ a public consultation on proposals to ban the importation of 1. dogs with cropped ears and tails, and 2. pregnant dogs who are more than 42 days pregnant. The proposals would apply across Great Britain.

¹ <https://www.gov.uk/government/news/new-powers-to-tackle-cruel-puppy-smuggling-move-step-closer>