

GLUE TRAPS (OFFENCES) BILL

Memorandum from the Department for Environment, Food and Rural Affairs to the Delegated Powers and Regulatory Reform Committee

A. INTRODUCTION

1. This memorandum has been prepared for the Delegated Powers and Regulatory Reform Committee to assist with its scrutiny of the Glue Traps (Offences) Bill (“the Bill”). The Bill was introduced in the House of Commons on 16 June 2021. This memorandum identifies the provisions of the Bill that confer powers to make delegated legislation. It explains in each case why the power has been taken and explains the nature of, and the reason for, the procedure selected.

B. PURPOSE AND EFFECT OF THE BILL

2. Glue traps are readily available in England and are primarily used as a pest control device for catching small rodents (rats or mice). They are broadly manufactured in the same way: non-drying glue is placed on a board which is then positioned on a flat surface so that small rodents will walk on to it and are unable to escape as their fur or limbs get stuck to the glue.

3. Glue traps are considered inhumane by animal welfare groups, the British Veterinary Association and members of the public. Trapped rodents often die a slow and painful death from suffocation, starvation, exhaustion and even self-mutilation.

4. The purpose of the Glue Traps (Offences) Bill is to protect rodents and other small animals from the risk of harm that may be caused to them by the use of glue traps.

5. The Bill includes measures to:

(a) make it an offence to:

- (i) set a glue trap in England for the purpose of catching a rodent;
- (ii) set a glue trap in England in a manner which gives rise to a risk that a rodent will become caught in the glue trap;
- (iii) knowingly cause or permit one of the above offences to be committed;
- (iv) find a glue trap in England that has been set in a manner which gives rise to a risk that a rodent will become caught in the glue trap, and without reasonable excuse, fail to ensure that the glue trap no longer gives rise to such a risk;

(b) require courts, upon conviction, to order the forfeiture of glue traps used in connection with any such offence and allow courts to order the forfeiture of any other glue traps that are in the possession or control of the person committing the offence;

(c) allow the Secretary of State to grant ‘glue trap licences’ to pest controllers – which will exempt a pest controller from the offences in clause 1 when using glue traps according to the terms of a glue trap licence;

(d) allow police constables and “authorised inspectors” who may be appointed by the Secretary of State to take enforcement action;

(e) grant powers to the Secretary of State to allow for charging of fees and other charges payable in connection with licences, to make provision for appeals in

relation to licensing decisions and to delegate the licensing functions to another competent public authority.

C. DELEGATED POWERS

6. There are four delegated powers within the Bill. The first is a power allowing the Secretary of State to make regulations prescribing the fees and other charges payable in connection with glue trap licences. The second is a power to make regulations conferring a statutory right of appeal in relation to licensing decisions. The third is a power to allow the Secretary of State to delegate licensing functions to any competent public authority. The fourth is a power to commence the provisions of the Act by regulations. The exercise of the first three delegated powers would be subject to annulment in pursuance of a resolution of either House of Parliament. Consistent with common practice, the commencement power is not subject to any parliamentary procedure.

Clause 2(5)(a): Power to prescribe fees and other charges payable in connection with glue trap licences

Power conferred on: The Secretary of State

Power exercised by: Regulations

Parliamentary Procedure: Negative procedure

Context and Purpose

12. The purpose of Clause 2(5)(a) is to allow the Secretary of State to make provision for, or in connection with, the charging of fees and other charges in relation to an application for the grant or modification of a glue trap licence.

Justification for taking the power

13. The use of a licensing regime to allow for the use of glue traps by pest controllers under certain conditions will incur a cost to the licensing and enforcement body, due to processing of applications and monitoring for compliance with licence conditions. It is in line with the Government's Managing Public Money Strategy for Ministers to set the structure and level of fees to enable full recovery of costs. It is likely to be necessary to adjust these fees to reflect changes in the underlying cost base.

Justification for the procedure

14. The exercise of the power would be subject to the negative resolution procedure. The Department believes that this procedure is appropriate for the prescribing of fees, which are likely to be amended but are unlikely to be changed for any reason other than to reflect changes in underlying costs of licensing.

Clause 2(5)(b): Power to make provision for, or in connection with, appeals in respect of licensing decisions

Power conferred on: The Secretary of State

Power exercised by: Regulations

Parliamentary Procedure: Negative procedure

Context and Purpose

15. The purpose of Clause 2(5)(b) is to provide the Secretary of State with a power to make regulations to make provision for, or in connection with, appeals in respect of licensing decisions.

Justification for taking the power

16. The Department considers that the provision of a statutory right to appeal in relation to licensing decisions may be appropriate. However, the Department considers that it would be more appropriate to set out the appeals process in secondary legislation. There will be two years before the offences in clause 1 will apply, giving the pest control sector time to adjust. In this time, we will engage with the sector in order to tailor the appeals process to the types of licences that pest controllers may seek, as well as to the body with responsibility for issuing the licences, taking into account any changes that have taken place over those two years. The Secretary of State may, for example, delegate the power to grant licences to pest controllers to Natural England under Clause 2(7). In this case, it would be a priority to ensure that the appeals process was consistent with any appeals process used by that body for similar licences, which may change in this period or in the future.

Justification for the procedure

17. The exercise of the power would be subject to the negative resolution procedure. The Department considers this to be an appropriate degree of Parliamentary scrutiny as the power is limited to the provision of an appeals process, which will need to be designed, in any event, to comply with Article 6 of the European Convention on Human Rights.

Clause 2(7): Power to delegate licensing functions to any competent public body

Power conferred on: The Secretary of State

Power exercised by: Regulations

Parliamentary Procedure: Negative procedure

Context and Purpose

18. The purpose of Clause 2(7) is to provide the Secretary of State with a power to make regulations to delegate licensing functions to any competent public authority.

Justification for taking the power

19. This power will allow the Secretary of State to delegate the licensing functions to another public authority capable of delivering these licensing functions for the Secretary of State. Currently, the most suitable body is likely to be Natural England. However, there may be a change in the remit and responsibilities of Natural England and other public bodies in the future, so the provision to appoint any competent public authority is needed.

Justification for the procedure

20. The exercise of the power would be subject to the negative resolution procedure. The Department considers this to be an appropriate degree of Parliamentary scrutiny as the delegation of licensing functions is expected to be straightforward and should not be controversial.

Clause 10(2): Power to appoint the day or days the provisions of the Act come into force

Power conferred on: The Secretary of State

Power exercised by: Regulations

Parliamentary Procedure: No procedure

Context and Purpose

18. The purpose of Clause 10(2) is to provide the Secretary of State with a power to make regulations to appoint the day or days the provisions of the Act come into force.

Justification for taking the power

19. The expectation is for the main offences in clause 1 to come into force two years after the Act is passed. However, it may be necessary to commence the powers to make regulations concerning licensing functions (as detailed above) before the end of the two-year period so that the licensing regime is in place before the offences come into force. The precise timings will need to be determined in discussion with the appointed public authority and the pest control sector.

Justification for the procedure

20. Consistent with common practice, commencement regulations under this clause are not subject to any parliamentary procedure as Parliament will already have approved the substance of the provisions being commenced.

Department for Food, Environment and Rural Affairs
31 January 2022