

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol
Constitutional and Legislative Affairs Committee

Alun Davies AM
Minister for Natural Resources and Food
Welsh Government
5th Floor
Tŷ Hywel
Cardiff Bay

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



22 October 2013

Dear Minister

Control of Horses (Wales) Bill

1. Thank you for appearing before the Committee yesterday to provide evidence on the above Bill, which you introduced on Monday 14 October 2013.

2. In advance of the Stage 1 debate later today, we have set out some views on the basis of yesterday's session.

Bypassing of stage 1 of the National Assembly's legislative process

3. We note that the Business Committee agreed to bypass Stage 1 scrutiny of the Bill on 24 September 2013.

4. We have some serious reservations about the lack of a Stage 1 process for the scrutiny of this Bill.

5. In particular, we have identified a number of possible anomalies in this Bill (which we discuss later). We believe that the legislation would have benefitted from all relevant committees having the opportunity to consider this Bill at greater length and with relevant stakeholders.

6. One of the principal purposes of Stage 1 is to understand the aims and objectives of the legislation and as part of that process, to enable stakeholders to engage with Assembly committees. This process helps the legislature to identify areas where the new law could be improved, to assist the Welsh Government deliver the best legislation possible.

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7. On this point, it is worth noting that the consultation and engagement undertaken by an Assembly committee is fundamentally different to that undertaken by the Welsh Government, and even more so where the Welsh Government has consulted on the policy behind a Bill rather than the wording of the Bill itself.

8. We note that you circulated a draft Bill to political spokespeople in September. We believe that it would have been more appropriate for you to have put in place the necessary administrative arrangements to enable the legislation to have been introduced at the start of term. This would have allowed for committees of the Assembly to have a greater role in its scrutiny, albeit over a shorter period of time than is usual.

9. It is also surprising that, having said that there was a need to get this legislation on the statute book by the start of winter, by your own admission, the Bill is not likely to receive Royal Assent until early in the New Year. This causes us to question how urgent the legislation really is, particularly as it appears from our scrutiny that little effort was made by the Welsh Government to expedite its own policy-making processes.

10. We do accept that on some occasions it may be necessary to expedite legislation and indeed the existing standing orders provide for such a process.

11. Nevertheless, this is the third consecutive Welsh Government Bill to have received curtailed scrutiny. We are concerned that this appears to be becoming a habit and a continuing theme in the Welsh Government's approach to legislative scrutiny by the National Assembly.

Section 3 – Notice about seizure etc.

Section 5 – Disposal of impounded horses

12. Section 5(1) provides that the local authority may dispose of a horse at the end of a period of seven days beginning with the relevant day if the owner (or a person acting on behalf of the owner) has not contacted the authority or has failed to pay the authority's reasonable costs. Section 5(2) defines the 'relevant day' by reference to the date on which notice was given under sections 3(4) and 3(3). Section 3(3) requires the local authority to give notice to the person who appears to be the owner (or acting on behalf of the owner) and a constable.

13. In evidence you explained that notice to a constable alone would be sufficient if the owner could not be traced. If that is the intention, we

consider that the wording of section 3(3) should be amended to make that clear.

Recommendation 1: We recommend that you should consider tabling amendments to review the clarity of the sections of the Bill that deal with the giving of notice in the context of the local authorities' powers to dispose of horses.

Section 7 – Appeals

14. We note that during the evidence session you said that the Bill must provide for a process of appeal. We agree with you as we believe this would fully and more clearly discharge obligations arising from the European Convention on Human Rights.

Recommendation 2: We recommend that you should consider tabling an amendment to section 7(1) of the Bill to make it a duty on Welsh Ministers to provide for a right of appeal in relation to any matter arising under the legislation.

15. While we welcome your decisions to set out on the face of the Bill a framework explaining what the regulations *may* contain, we cannot envisage an appeal procedure that does not contain some, if not all, of the provisions listed in section 7(2). In particular, we consider the provisions set out in sections 7(2)(a) and 7(2)(g) to be of such crucial importance that regulations made by Welsh Ministers *must* be required to include them.

Recommendation 3: We recommend that you should consider reviewing section 7(2) with a view to tabling amendments to require regulations to contain some if not all of the provisions listed in paragraphs (a) to (g).

16. We note your view that regulations made under section 7 should be subject to the negative procedure. We disagree. We believe that regulations establishing an appeal process should be subject to the affirmative procedure. This is particularly important here, given the timescales involved and the risk of horses being destroyed.

Recommendation 4: We recommend that you should table an amendment to section 7(3) of the Bill to apply the affirmative procedure to the making of regulations under section 7.

Section 9 – Interpretation

17. We note and agree with your view that in relation to the definition of horses, the English and Welsh language texts should be of equal status.

Recommendation 5: We recommend that you table an amendment to ensure that, as regards the definition of horses in section 9, the English and Welsh language texts correspond more clearly.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Simon Jones', with a stylized flourish at the end.

Simon Thomas
Temporary Chair