



Consultation response from the League Against Cruel Sports

Economy, Trade and Rural Affairs Committee: Agriculture (Wales) Bill

The League Against Cruel Sports welcomes the opportunity to submit a written paper to the Economy, Trade and Rural Affairs Committee, ahead of the planned evidence session on the Agriculture (Wales) Bill on 9 November. The League has long called for a full ban on snares in Wales and strongly welcomes the inclusion of a ban on the use of these devices featured within the proposed legislation.

The League particularly supports the approach that has been taken to introduce an outright ban on the use of the devices as opposed to giving Ministers general powers to regulate snares. We feel that this is more proportionate given the suffering snares cause to animals.

We welcome the Government's acknowledgement of the significant animal welfare issues linked to the use of snares, the strong public support for a ban and the high level of public engagement in the consultation process. We also welcome the Welsh Government's decision to ensure that the use of snares cannot be licenced in Wales – making Wales the first UK nation to take such decisive action.

1. Queries in relation to the wording of the snaring ban

Section 43

Subsection (ba) makes it an offence to **set in position** '*any snare, or other cable restraint, which is of such a nature and so placed as to be likely to cause bodily injury to any wild animal coming into contact with it*'. Meanwhile, subsection (bb) makes it an offence to **use** a snare '*for the purpose of killing or taking any wild animal any snare, or other cable restraint, whether or not of such a nature or so placed as aforesaid*'.

This mirrors the terminology used in the current provisions of the Wildlife and Countryside Act 1981 (WCA) which outlaw the use of self-locking snares. However, Sections 11(a) and (aa) of the WCA applicable to Scotland and as amended by Schedule 6(10) of the Nature Conservation (Scotland) Act cover anyone who '*sets in position or otherwise uses*' a self-locking snare or any other snare calculated to cause unnecessary suffering.

The League is concerned that the wording '*sets in position*' may not cover all instances of the use of a snare, potentially posing a challenge for enforcement. For example, there have been cases in which defendants have claimed that snares have been left in situ but not set¹. To avoid ambiguity and unintended loopholes arising, it would be preferable to amend sections 43(ba) and (bb) of the Bill to read '*sets in position or otherwise uses*'.

The League would also welcome clarification as to what, if any, uses of snares the Welsh Government intends to remain legal in Wales. Section 11(1)(a) of the WCA as it applies to Scotland outlaws the use of self-locking snares, with no qualification as to their likelihood to cause suffering or their use for taking or killing an animal. Enforcement of a ban on snaring in Wales may be simpler without the latter qualification in particular, due to potential challenges of proving intent, unless it is required to avoid unintended consequences.

¹ <https://www.thetelegraphandargus.co.uk/news/17462776.amp/>

As well as considering whether the wording used is as clear as possible, we also urge the Welsh Government to continue to ensure that the ban is applicable to all snares, including those branded as 'humane cable restraints' or similar. Welfare issues with the use of code-compliant snares remain, for example as detailed by the recent report *A Review of the Use of Snares in the UK* (Professor Stephen Harris, 2022). To protect animal welfare and ensure the ban functions as intended, the ban should apply to all snares and cable restraints as it does in its current format.

Section 44

The explanatory memorandum states that Section 44 of the Bill amends section 11(2) of the WCA so that the prohibitions on 'setting in position any trap or snare, or any electrical device for killing or stunning, or any poisonous, poisoned or stupefying substance' will apply where the use of those devices is "*likely*" – rather than "*calculated*" – to cause injury to a protected wild animal.

The League supports this change from 'calculated' to 'likely' as we believe that it will aid in enforcement of the snaring ban by setting the evidential burden to a more appropriate level.

However, the amended subsection would apply to '*any trap other than a glue trap*' in Wales, rather than the existing formulation of '*any trap or snare*'. In light of the removal of the word '*snare*', we would welcome clarity as to whether snares are encompassed by the term '*any trap*', or whether the wording of the Bill creates ambiguity in this area.

2. Suggestions the snaring ban could amended at a later date

Clarity as to whether the current terms of the Agriculture (Wales) Bill could be modified at a later date is also needed, as section 46 (2) of the Bill states that Ministers could make regulations to '*modify any enactment (whenever enacted or made, and including this Act)*'. Section 51 states that the word '*modify*' is to be interpreted as including amending, revoking and repealing. This raises the question as to whether regulations could be made in future which directly weaken or repeal the snaring ban. The potential for primary legislation to be amended in this way is also implied under Section 47(8) which mentions regulations which '*modify any provision of primary legislation*'.

This general power to make regulations appears to be explained in the explanatory memorandum's 'summary of powers to make subordinate legislation' table as being 'appropriate to ensure, that where amendments to other legislation are found to be necessary, to give full effect to this Bill, further primary legislation is not required'. However, we are concerned that the powers under Section 46 could be much broader than this in allowing regulations which create exceptions and/or permit snares to be used in certain circumstances – something the League would be strongly against. It is therefore important that we achieve clarity on this so that stakeholders such as ourselves can fully assess its potential implications.

3. No references to the sale, manufacture and possession of snares

While a ban on the use of snares is much welcome, we are concerned that these traps will continue to pose a threat to animals if the possession, sale and manufacture of them is not also covered by the Agriculture (Wales) Bill. In December 2020, the Welsh Government launched a consultation on the Agriculture (Wales) White Paper which suggested that legislation could be amended 'to increase the control over their manufacture, sale and use'. The League was strongly supportive of this proposal within its consultation response and is now seeking clarity on why controls on the manufacture and sale of snares are not being considered at this stage.

The White Paper consultation document also noted that the Welsh Government has stated that a ban on both the sale and use of snares would be sought if evidence showed that the voluntary *Code of Best Practice on the use of snares in fox control* was not being adhered to. While it was stated in the consultation that 'regular meetings and communications with snare-user groups have failed to provide sufficient evidence to demonstrate that the Code is being adhered to across Wales', there is no reference to prohibiting the sale of snares within the recently published Agriculture (Wales) Bill.

As it stands, it is unclear as to whether this is due the introduction of the Internal Market Act 2020 which seeks to prevent internal trade barriers among the four UK nations. While the Internal Market Act may affect the ability of legislation on the sale of snares to be enforced, it is currently unclear as to whether other options have been explored. It is worth noting in this context that the Welsh Government has described the Act as 'an unwarranted attack on devolution and the right of the Senedd to legislate without interference in areas devolved to Wales'.

For example, if including a ban on snares within the proposed legislation would not be feasible due to an inability for it to be implemented, could Ministers instead be granted the power to regulate the sale of snares? This would allow regulations to be brought forward at a later date. Alternatively, a ban on the sale of snares in Wales could be potentially included within the Agriculture (Wales) Bill, with commencement of this provision taking place at a later date if and when issues relevant to the loss of devolved powers are resolved.

We strongly believe that the sale and manufacture of snares should be addressed in order to reduce the immediate availability of these devices in Wales and assist with compliance with the proposed ban on the use of snares.

If the use of snares is banned in Wales due to their cruelty and the suffering they cause, making, selling and potentially exporting tools of such cruelty should not be permitted either. It is our view that there would be no good reason to make snares in Wales when their use is outlawed, nor should it be possible to profit from or trade in these cruel traps. Removing the avenues for the supply of snares, and preventing the potential for their use at an earlier stage, could assist with ensuring that the ban on snares protects animals from the suffering they cause, provide additional enforcement tools and ensure that Wales continues to lead by example. Under Section 11(3) of the WCA as it applies to Scotland, the sale of self-locking snares is an offence.

There is also currently no reference to prohibiting the possession of snares included in the Agriculture (Wales) Bill. The majority of snares are used on private land and are left unaccompanied for hours at a time, which could make proving who has used them a challenge. Addressing the possession of snares without reasonable excuse within the Bill could assist with the enforcement of a ban on their use in such circumstances, by enabling prosecution of those who possess them without legitimate reason, as with prescribed poisons under the WCA. It would also provide additional opportunities to remove snares from circulation which would otherwise be used to commit an offence. Under Section 11(3) of the WCA as it applies to Scotland, the possession of self-locking snares without reasonable excuse is an offence.