



Llywodraeth Cymru  
Welsh Government

# Justice System Impact Identification

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Form

**Overview**

**Welsh Government officials are submitting this form**

- **For assessment by the Ministry of Justice**

**The Welsh Government’s assessment of the impacts of this legislation on the justice system is that it has**

- **Low potential impact**

**This is because:**

The legislation extends the Wildlife and Countryside Act 1981 to encompass and include additional species as well as additional trapping methods which effectively introduces new offences and sanctions. However these new offences sit within an established and well-used legislative and enforcement framework – as such only a small number of prosecutions is anticipated. Estimates on the number of cases brought forward for enforcement action is anticipated to be minimal because although the detection of offending will improve, challenges will remain. It is also hoped the change in law will engender behavioural changes and act as a deterrent.

**1. Bill Title**

1.1. Working title of Bill

Agriculture (Wales) Bill

**2. Policy lead contact details**

2.1. Name / Job Title

[Redacted]

2.2. Department / office / business area

Landscapes, Nature, and Forestry Division  
Land Management Reform

2.3. Telephone number

[Redacted]

2.4. Email address

[Redacted]

2.5. a) Date of submission of this form

Date of Submission: 08/02/22

2.6. b) When is a response required?

Response Requested by: 04/04/22

**3. Additional contact details**

3.1. Legal Contact

[Redacted]

3.2. Telephone number

[Redacted]

3.3. Email address

[Redacted]

**4. General information**

4.1. Please provide a) contact details of your lead official for the appraisal of costs or savings and;  
b) the Justice Policy lead if known.

[Redacted]

4.2. Have you notified the judicial office of your proposals by completing Desk Instruction 7? (please seek advice from your legal advisors)

Yes

No (please explain why)

The proposals do not affect the administration of the courts system and the tribunal system, nor are they likely to bring changes to the criminal law in such a way as to have any effect on the operation of the judicial system.

- 4.3. In brief, what is your proposal? (no more than half a page) (*This information is provided to help MoJ officials to understand the intent of the proposed change in order to be able to comment as fully as possible on its potential impacts*).

The Agriculture (Wales) Bill (“the Bill”) provides for the establishment of a new system of Farm support and Sustainable Land Management (SLM). The Bill will replace the time limited powers taken for Welsh Ministers in the UK Agriculture Act 2020. The Bill will allow for Welsh Ministers to continue making payments to farmers during a transition period with powers to simplify and phase out Direct Payments.

The Bill will alter the Forestry Act 1967 to give Natural Resources Wales the power to add conditions to amend, suspend or revoke felling licenses to prevent felling that would contradict other environmental legislation. The Bill also provides for the prohibition of Snares and Glue Traps

The proposal is to amend the Wildlife and Countryside Act 1981 to ban both the use of snares and the use of glue traps with the primary objective of protecting and promoting higher standards of animal welfare in Wales.

The current legislative framework offers no legal protection to foxes from the use of snares. A significant amount of work has been done in recent years to engage with sector representatives for agriculture, countryside pursuits and pest control. This work produced a code of practice for the use of snares in fox control. Emphasis was placed upon the sector to voluntarily improve practices and to provide evidence that snares were being used responsibly and humanely. That evidence has not been forthcoming, however the evidence of: how indiscriminate snares are with non-target species including domestic/pets often falling victim; and how acute the suffering of any animal caught in snares - has been produced and put forward. Alternative, more humane methods of fox control are available.

Glue traps are mainly used by pest controllers and sometimes by members of the public in their own home. Currently no legal definition exists, but essentially this relates to any trap with non-drying glue designed to capture rodents. The issue arises when the trap isn't constantly monitored and the animal suffers great pain and distress until it is despatched. It is reasonable to assume that most householders would not know how to cleanly, painlessly and legally euthanase a mammal. The suggestion is that the trap may often be thrown away with the animal still live and stuck to it until it may either chew its limb/tail off to break free or it dies, which might be hours or days later. Alternative pest control means are available and are in use, working effectively for many local authorities and pest controllers in Wales.

Ministers in Wales are concerned that while both means of trapping animals remain legal, it may inadvertently represent an endorsement of these methods when in fact they fall very short of the standards of animal welfare the Welsh Government is committed to in Wales. Action in the form legislation will provide a clear statement and guide the public in Wales as to what is and isn't acceptable in terms of animal welfare.

A significant number of pest controllers, including local authorities do not use glue traps and will not be negatively affected by their use becoming prohibited, in addition the evidence suggests that adequate alternatives exist. It is not possible to determine the number of farmers and game keepers who use snares but the evidence on this and how they might be negatively affected by a ban does not outweigh the animal welfare benefits. This is particularly so when considering the evidence that more effective and efficient alternatives, such as shooting (by 'lamping' or with thermal imaging), which exist.

The intention is to legislate to ban both snares and glue traps, with no mitigations.

The short term effects of the ban fall mostly around the user's access and knowledge of alternatives, however the ban has been announced by Welsh Government and it is anticipated that these provisions within the Bill will attract significant attention during the 18-month Bill process in the Senedd. It is hoped this will raise awareness of the forthcoming measures and encourage users to switch to more humane and legal methods of pest control. In the long term the Welsh Government expects a significant improvement in animal welfare standards, as the majority of citizens will comply. It is hoped this will also contribute to a changing of attitudes and behaviour towards all wild animals and what constitutes a 'pest'.

The ban will come into force at a date to be specified in the Bill but there is no intention to set a date further into the future than from immediate effect following Royal Assent. Success will be determined through a drop in reported incidents of animals found dead or injured in snares and glue traps and it is expected – particularly following awareness of these forthcoming measures during the passage of the Bill – that this timeframe will begin immediately.

The proposal will be implemented by the Welsh Government and enacted by enforcers, primarily through the wildlife crime teams in the four police forces. The measures are in keeping with other offences within the Wildlife and Countryside Act with practices already familiar to enforcers. Although current incidents are difficult to detect or calculate, with clearer parameters on what methods of capturing 'pest' species are permitted, it is anticipated that over time there will be a drop in offences.

- 4.4. Is this legislative proposal similar in any way to legislation being brought forward in England? If so, please name that legislation and identify below any ways in which the legislation brought forward in Wales will differ.

If the legislation has no substantive difference from that in England, there may be no need to complete all parts of the JSII form.

There is currently a Bill in Westminster which seeks to secure a ban on the use of glue traps. It is possible the Bill will provide for a licensing system to permit professional pest controllers to use glue traps in certain circumstances, but otherwise the two bans will be similar and affect the general public in the same way. Snares for capturing foxes are not banned in England and we are not aware of any proposals to legislate at this time.

- 4.5. Please specify the name of any other related legislation. How do you expect the relevant provisions of this (new) legislation to be enacted?

Wildlife and Countryside Act 1981  
s11 - Prohibition of certain methods of killing or taking wild animals  
Implemented by Royal Assent

- 4.6. Please indicate the anticipated date when a) the legislative changes are expected to come into force and b) the date when the first anticipated impact on the justice system will arise.

a) If the Bill is introduced in June 2022 as planned, Senedd timetabling suggests it may likely complete all stages by December 2023

b) If the provisions are in place from early 2024, it is possible an offence could be detected soon afterwards and be brought before the courts within a few months, but cases with sufficient evidence as to proceed to court are unlikely to be high then or in any year, and may not reach double figures.

- 4.7. If altering or introducing an offence, sanction or penalty, which of the following groups will the proposal affect and in what circumstances? (Tick all that apply)

- Individuals
- Private Institutions (e.g. Businesses)
- Public Institutions (e.g. Government Departments)

It is believed that those affected by the ban in legislation for snares will be landowners, gamekeepers and farmers. For glue traps, in the main, it will be pest control companies and local authorities charged with public protection, which also includes health authorities, plus education authorities in some cases. Individual members of the public are also known to use these traps. There are no exceptions (of permitted use) planned for either snares or glue traps as sufficient alternatives exist which are also far more humane.

4.8. Does your legislation only have impact in Wales or are you working jointly with other administrations? Tick all that apply and provide brief details as appropriate, including whether your proposal will create different laws in Wales compared to England, Scotland and / or Northern Ireland.

Please note that, with the exception of the devolved tribunals, the MoJ administers the justice system in England and Wales only. Please talk directly to the MoJ devolution unit if you anticipate your proposal could have an impact on courts or prisons in Scotland or Northern Ireland.

- Wales only
- England
- Scotland
- Northern Ireland
- Other (Please Specify)

Scotland is considering a ban on snares and has announced a (total) ban on glue traps but have no specific legislative commitment at this time. England has not announced any plans to ban snares but have a Bill to restrict the use of glue traps to licensed pest controllers currently progressing through Westminster.

4.9. If your legislation could directly impact visitors to Wales or other people not normally resident in Wales, or if your legislation is significantly different from elsewhere in England, Scotland or Northern Ireland;-

- a) what arrangements have you made to ensure ongoing awareness raising of the different legislative approach on this issue in Wales?
- b) what will be the implications on the enforcement agencies of taking forward action against individuals not usually resident in Wales?

It is not envisaged visitors to Wales will normally be included within the group of people who use snares or glue traps and so awareness raising will be confined to the public resident in Wales when trying to ensure compliance. Of course Wales will display its credentials as a higher welfare nation when attracting tourists.

There is the possibility that a non-resident of Wales may set a snare in Wales, for example within an estate or farmland that straddles the border with England, however the offence will have occurred in Wales and that individual will be subject to the same sanctions as if a resident had committed the offence.

4.10. What are the options under consideration and how does this change the existing situation?

The option of doing nothing does not affect the justice system as many incidents of the illegal use of snaring do not progress to court and cases involving glue traps where animals are left to suffer are extremely rare.

There is no option of civil enforcement as there is no appropriate body to execute this work.

An option of licensing for either/both snares and glue traps would not achieve the Government's stated aims and would produce a costly burden upon any licensing authority without any assurances of animal welfare benefits due to the inability to monitor and independently inspect for compliance.

The legal framework that determines the associated penalties does not allow for alternatives for meeting the objectives such as out of court disposals and they would also not achieve parity with other animal welfare offences.

The deterrent factor associated with the proposed legislation is impossible to gauge but prevention is often better embedded via a high profile prosecution, should one occur. With only approximately 30 wildlife police officers for the whole of Wales snaring offences will not be proactively detected in the majority of cases and so may not reach double figures per year. The ban on glue traps differs slightly and is more likely to be an offence a local authority inspector or the Royal Society for the Prevention of Cruelty to Animals may pursue through private prosecution. The RSPCA had only 7 glue traps cases reported to it in Wales between 2016 and 2021. Glue trap prosecutions are also therefore unlikely to exceed one or two a year.

4.11. If you are creating a new civil sanction or penalty which court or tribunal, in your opinion, should deal with it?

n/a

### Criminal Offences and Civil Penalties and Sanctions

4.12. Which of the following are you creating / amending? (Tick all that apply)

- Civil Sanctions
- Fixed Penalties
- Civil Orders
- Criminal Sanctions
- Criminal Offences
- Other (Please Specify)

There is no intention to extend powers

4.13. If you are creating a criminal offence, is it:

- Summary Only (heard before a bench of lay magistrates / judge only)
- Triable Either Way
- Indictable Only (heard before a judge and jury)

In cases where the maximum penalty is to be an unlimited fine, and a triable either way offence is warranted, please explain why a summary only offence is not considered appropriate. This is especially relevant if few, if any, cases are anticipated.

N/a

4.14. Who will be responsible for the enforcement of your legislative proposal and how will they take this role forward? Will there be an increased / reduced need for enforcement action?

The majority of snares cases are likely to fall to the police in Wales. Glue traps may be pursued by local authority welfare inspectors. In both cases the RSPCA may also take private prosecutions although they have announced the intention to cease all prosecutions and hand the evidence they collect to the CPS. All three bodies currently investigate cases of animal cruelty but have no satisfactory outcome due to the inability to prove the offence or where animal cruelty is suspected but the method (trap) is not prohibited. As such the work of their officers should not differ greatly when considering the low numbers of incidents reported to them. Prosecutions will present a cost to local authorities and the RSPCA, however fall well within their stated purpose. Where resources, particularly in local authorities, are inadequate it is probable the case won't be pursued or it might be passed to another body – particularly where there are other offences (e.g. from the RSPCA to the police) where collaboration is working well. Local authorities will normally only enforce farm and domestic legislation and may not have the requisite training or resources to pursue a wildlife case.

4.15. What is the anticipated number of cases per year? Please provide details of any evidence of assumptions on which estimates are based.

Incidents regarding the use of snares or glue traps are not reported in large numbers to any enforcement body despite the evidence that suggests their widespread use. Using the numbers reported alongside our understanding of the available resources e.g. approximate 30 wildlife officers in the police and a similar number of RSPCA inspectors covering the whole of Wales, there is unlikely to be any proactive work to detect such incidents, they will be reactive and dependant on members of the public reporting something they have witnessed or found. The evidence required to achieve a successful prosecution will be another barrier – for instance it is very difficult to establish who has set a snare (as they may have no relation to the landowner). As such the estimates are that for either snares or glue traps the cases per year (considering all enforcement bodies together) are likely to be between 0 and 9.

4.16. Do you expect proceedings to be heard in the Magistrates' Court, the Crown Court, or a Civil Court? What will the proportions be?

Magistrates' Court only

4.17. Please state the maximum associated fine and/or custodial penalties. In the case of offences involving penalties of a fine or custody, please indicate and explain the circumstances which would result in a custodial sentence upon conviction and the proportion of custodial penalties which will be at the maximum level.

Penalties will be in line with those in the Wildlife and Countryside Act 1981 for most Part 1 offences; namely on summary conviction imprisonment for a term not longer than 6 months or an unlimited fine (see section 22(1) of the WCA). This is to ensure parity with other animal welfare offences.

4.18. Please provide details of any proxy or current offences and / or penalties on which the proposed penalties are based. If mirroring / comparing existing legislation, ensure that reference is made to the most recent versions of the legislation (via Westlaw, the online legal research service) as this is not always available online.



Please see previous answer.

- 4.19. Please provide details of the relevant legislation (where appropriate) and confirm whether the creation or amendment of criminal offences and penalties has been agreed in line with the guidance available at <https://www.gov.uk/government/publications/making-new-criminal-offences>.

Wildlife and Countryside Act 1981

- 4.20. What will be the short, medium and lifelong implications for an individual found guilty of this offence, and how is this proportionate to the offence created?

Prison sentences are imposed rarely in wildlife offences, and where they are will usually result in a maximum of 3 months served. More commonly a fine is imposed. Both outcomes can affect employment should that person wish to work in the public sector or for an animal welfare organisation, where such a conviction for a criminal offence would have to be declared. However this does not affect the vast majority of individuals' ability to find employment. In the case of a conviction in relation to a prohibited use of a snare, it would be unlikely to affect employment opportunities in farming or countryside pursuits – which is where the offender would most probably originate from given those sectors are currently (as it is legal) the primary users of snares.

- 4.21. Does this legislation impose any duty on the public sector? If so, please provide your assessment of the likelihood of individuals or businesses taking action against the public sector for non-compliance with this legislation.

N/a

## 5. HM Courts & Tribunals Service and the Welsh Tribunals Service

### Estimating the change to caseload of the Courts and Tribunals Service (including devolved tribunals)

- 5.1. Do you expect there to be a change in Court or Tribunals process or an increase / decrease in applications / cases to HM Courts and Tribunals Service and / or the Welsh Tribunals through the creation or amendment of this law? Please provide an estimate of the change to volumes of cases going through the court system as a whole, explain any changes in process and outline the evidence and sources that support these estimates.

As per the answer to 4.15 this is estimated to be between 0 and 9 cases per year

- 5.2. Please confirm if the courts / tribunals would be under any duty to inform any regulatory authorities of any convictions made under this offence.

- No  
 Yes (please provide details)

### Appeal Rights

- 5.3. Does your proposal create a new right of appeal or expand an existing jurisdiction in the Unified Tribunals System or route to judicial review? If so, how do you expect these to be handled (i.e. administered by HM Courts & Tribunals Service or Welsh Tribunals)?

No new right of appeal is created (this already exists)

- 5.4. Do you expect to establish a new tribunal jurisdiction? If so, has this been discussed with the Welsh Tribunals Unit / Ministry of Justice?

N/a

### Alternative Dispute Resolution

- 5.5. To what extent could the use of alternative dispute resolution (ADR) procedures (including mediation) be appropriate? How will success in ADR be measured?

N/a

### Prosecution and Enforcement

- 5.6. If the proposal is to add a new offence, will the Crown Prosecution Service act to prosecute defendants? If not, please identify who will prosecute.

It is envisaged that the majority of cases will be prosecuted by the CPS however it is possible that local authorities and the RSPCA may also pursue a prosecution.

- 5.7. Will the proposal require enforcement mechanisms for civil debts, civil sanctions or criminal penalties? If yes, who do you expect to enforce these?

This would follow those that already exist under the Wildlife and Countryside Act 1981. Fines enforcement would be through the courts in the usual way.

### HMCTS Procedural Rules, Sentencing and Penalty Guidelines

- 5.8. Do you anticipate that Court and/or Tribunal procedural rules will have to be amended? If so, when is the likely date for the changes?

N/a

- 5.9. Will the proposals require sentencing and / or penalty guidelines to be amended?

There are currently no sentencing guidelines under the Wildlife and Countryside 1981 for any of its offences (which has been the subject of much criticism).

To date there has been no parallel work going ahead with England for glue traps (they have not stated any plans to ban snares) however the offences are being created under an entirely new Bill/Act – for which the penalties differ to the proposals in Wales (in England the proposal is a 51 week maximum custodial sentence) – and as such, if it should result in guidelines, will also differ.

## 6. Legal Aid and Court Fees

6.1. What evidence is there that individuals affected by your proposal will be able to secure and afford:

- a) legal representation and legal advice in order to secure a fair hearing of their case
- b) associated court fees

What legal costs for a typical case could each party bear and what provisions exist for a party found innocent to recover all or any of their legal costs?

As the number of cases that could proceed to court are expected to be low (and between 0 and 9 per year), it is not possible produce a socio-economic profile on a sample size so small but in relation to snares the majority are likely to be employed in agriculture or gamekeeping.

There is no specific legal aid provision, this would be approached in the normal way i.e. free police station advice (if relevant although summons is more likely) and means test for court.

The small number of anticipated cases suggests no significant new demand burdens for alternative sources of legal advice.

Court cases will normally be quite short in length as there will be a relatively small number of witnesses and physical evidence for the court to review. It is not impossible that representative organisations may involve themselves in early cases raising complexity and costs but this is only likely to be the case for the first few prosecutions.

It is difficult to assess court fees and we have not discussed with HMCTS but it is anticipated if these offences go to trial they will consist of short factual trials of no more than a day duration. (see above not relating to representative bodies).

6.2. Once implemented, is your proposal likely to require individuals to seek legal advice and to apply for legal aid in any of the following areas? In each case please provide supporting evidence.

- Criminal
- Civil (including Family)
- Asylum
- Legal aid not available (please provide supporting evidence)

The expected number of cases are so small as to make predictions on whether any would access or even qualify for legal aid difficult although in the case of snares offences it is anticipated most offenders will be employed in agriculture or gamekeeping

6.3. If legal aid may be affected, would legal aid costs increase or be reduced (and by what margin)?

Increase marginally, if accessed.

## 7. Prisons and Offender Management Services

### Impact on HM Prison Services

7.1. Will the proposals result in a change in the number of offenders being committed to custody (including on remand) or probation (including community sentences)? If so, please provide an

estimate and reasoning behind it, an estimated timeframe to reach this number of sentences, what evidence this is based on, and the source for your information.

It is likely that few, if any, of the possible 0 to 9 prosecutions per year will result in a custodial sentence (and there would be none on remand).

It is not possible to profile such a small sample however there is nothing to indicate the provisions created will more likely result in an offender with a protected characteristic.

- 7.2. Does the proposal create, remove or change an existing offence with a custodial or probationary sentence, or change the way offenders go through the prison / probation service? If so, please provide details, including the expected impact on probationary services.

N/a

## 8. Main Justice System Impacts Identified

### 8.1. Volumes and Costs or Savings (please lengthen if necessary):-

NB in all cases, assume an average annual figure or make clear if a different timespan is being considered. Where there may be significance variance from average in the first years of implementation, please add additional information in the notes below.

Identify the court or tribunal or MoJ service that will be affected by this proposal?	Volumes (please provide both numeric estimates and min-max ranges)	Type (e.g. prison place, tribunal hearing, fixed penalty, etc.)	Estimated recurring annual costs or savings (both numeric estimate and min-max range) (£)	Estimated initial set up costs (£)	Additional Information
Criminal Offences and Sanctions	0 – 9 but more likely to be at the low end of that scale	Fine or imprisonment (up to a maximum of 6 months)			
Civil Penalties	0	0	0		
HM Courts & Tribunals Services	0	0	0		
Welsh Tribunals	0	0	0		
Legal Aid	As outlined, it is difficult to predict but again probably none or less than 5 p.a.				
Notes:-					

### 8.2. Prisons and Offender Management Services (lengthen if necessary, only complete if maximum penalty is something other than a fine):

Offence	Maximum Penalty	No. of prosecutions brought per annum (numeric estimate and min-max range)	Likely proportion sentenced to immediate custody	Likely average custodial sentence length given	Estimated costs or savings p.a. (£) <sup>1</sup> (please provide numeric estimate and min-max range)
Offence under s11 of the Wildlife & Countryside Act 1981 - for both the ban on snares and glue traps	6 months imprisonment	0 - 9	0	0	0
Notes:					

**Please be aware that any costs or savings identified as a result of any changes to the justice system /additional work must be factored in to the financial assessment of your legislation.**

<sup>1</sup> The MoJ publish statistics on "Prison cost per place and cost per prisoner:" - see <https://www.gov.uk/government/statistics/announcements/prison-cost-per-place-and-cost-per-prisoner-2017-to-2018>