

**National Assembly for Wales**  
Bill Summary

# Bill Summary: the Control of Horses (Wales) Bill

October 2013

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## **Bill Summary: the Control of Horses (Wales) Bill**

October 2013

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# The Control of Horses (Wales) Bill

**Introduction date:** 14 October 2013

**Member in charge:** Alun Davies AM, Minister for Natural Resources and Food

**Stage 1 debate:** 22 October 2013. No Stage 1 committee scrutiny of the Bill.

**Committee undertaking Stage 2 Scrutiny:** Environment and Sustainability Committee

## 1. Introduction

The *Control of Horses (Wales) Bill*<sup>1</sup> ('the Bill') was introduced by the Minister for Natural Resources and Food, Alun Davies AM, on 14 October 2013. The Bill aims to address the issues of fly-grazing and the abandonment of horses, with the accompanying explanatory memorandum ('the EM') stating that the Welsh Government's primary policy objective in relation to the Bill is 'to work towards establishing a fly grazing free Wales'<sup>2</sup>.

The Bill proposes an all-Wales solution to enable all local authorities to deliver a consistent approach to removing the impacts that fly-grazing and the abandonment of horses and ponies have on landowners, the agricultural industry and communities across Wales. It establishes powers for local authorities to seize, impound, sell and dispose of horses that are in any public place or any other land in the local authority's area without lawful authority.

This is the third Assembly Bill in succession to be expedited through Stage 1<sup>3</sup>.

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<sup>1</sup> [The Control of Horses \(Wales\) Bill](#) [accessed 14 October 2013]

<sup>2</sup> Welsh Government, [Explanatory memorandum: Control of Horses \(Wales\) Bill](#), October 2013, paragraph 33. [accessed 14 October 2013]

<sup>3</sup> The [Agricultural Sector \(Wales\) Bill](#) and the [National Health Service Finance \(Wales\) Bill](#) are the two preceding Bills.

## 2. Background

### 2.1. Fly-grazing

The EM defines fly-grazing and abandonment as follows:

the practice by irresponsible horse owners (or the person responsible for the horse), of intentionally or negligently permitting their horses to graze on land where they do not have the consent of the owner or where that consent has been withdrawn and the horse owner has refused to remove the animal(s); or, where the horse(s) has been abandoned and left to fend for itself with no care or attention from the owner or person responsible.<sup>4</sup>

The problem of fly-grazing started to get attention in the media as recently as in March 2012, when The *Telegraph* reported it as a ‘new countryside crime’:

The Country Land and Business Association (CLA) has received more than 200 calls in the last year from exasperated land owners who have found neglected horses abandoned on their land.

The animals are often in a poor condition and can be wild and dangerous to handle.

Unscrupulous owners are also putting horses out to graze on private land as prices of hay and grassland increases, then refusing to remove the animals.

It is believed the increase in abandoned horses has been driven by the recession that means many horse owners are struggling to keep their pets.

Old horses that cannot be sold are expensive to maintain and it is also costly to call out a vet for humane euthanasia.<sup>5</sup>

Horse and Hound magazine also identified it as a ‘growing issue’ in May 2012<sup>6</sup>. A National Farming Union survey in 2012 found that around 6% of its members (amounting to over 1,000 farmers) had had direct experience of the problem<sup>7</sup>, causing the union to publish an action plan<sup>8</sup> on tackling it. The same survey found that the problem had worsened over the previous three years, despite the introduction of compulsory horse passports and micro-chipping—measures that were intended to increase the traceability of horses, particularly those ultimately likely to enter the food chain.

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<sup>4</sup> Welsh Government, [Explanatory memorandum: Control of Horses \(Wales\) Bill](#), October 2013, paragraph 5 [accessed 14 October 2013]

<sup>5</sup> The Telegraph, [New countryside crime of ‘horse tipping’ and ‘fly grazing’](#), March 2012 [accessed 14 October 2013]

<sup>6</sup> Horse and Hound, [Equestrian law firms say fly-grazing is a growing issue](#), 17 May 2012 [accessed 14 October 2013]

<sup>7</sup> NFU online, [NFU issues action plan on fly-grazing](#), 1 August 2013 [accessed 14 October 2013]

<sup>8</sup> NFU, [Fly-grazing: The Challenge of Unauthorised Horse Grazing – NFU Action Plan](#), August 2013 [accessed 14 October 2013]



In a joint report of six welfare charities, [Left on the verge – in the grip of a horse crisis in England and Wales](#)<sup>9</sup>, published in June 2013, the RSPCA, Redwings, the Blue Cross, World Horse Welfare, Horse World and the British Horse Society stated the following:

So where do these horses go? Some go into the meat trade and **as the horsemeat scandal of 2013 underlined, some horses on fraudulent passports were going to abattoirs.** There were five to seven abattoirs operating in the UK, paying around £230 for a horse or around £80 for a pony to dealers for meat, which was, and still is, exported to The Netherlands, Belgium, France and Italy. The number of horses sent to slaughter in the UK for human consumption has almost doubled since 2008. **The lack of control on this business could have played a role in driving up the incentive for dealers to breed and trade in horses. The recent closure of two of the abattoirs may also be resulting in an increase in horses being fly grazed and abandoned.** [*Research Service emphasis*]

The EM also outlines the main issues associated with fly-grazing and abandoned horses and ponies:

- the risk to public safety when stray horses are found on highways causing road closures and diversions to motorists and potential accidents;
- the nuisance to communities (on public and private land including parks, playgrounds and other public spaces);
- the impact on the agricultural industry when land and fencing is damaged leaving insufficient grazing for the landowner's own stock;
- the environmental impact when ground is overgrazed and land becomes poached;
- welfare concerns linked to the discovery of uncared for and dead and starving horses; and
- the considerable financial burden to those who have to deal with the problem. Current estimated costs to the enforcement authorities (police service, local authorities, RSPCA and the fire service) since November 2011 amount to some £1.2 million.

The EM states that, since November 2011, more than 1,500 occurrences of loose, abandoned and fly-grazing horses were recorded in south Wales by South Wales Police<sup>10</sup>.

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<sup>9</sup> RSPCA, Redwings, the Blue Cross, World Horse Welfare, Horse World and the British Horse Society, [Left on the verge – in the grip of a horse crisis in England and Wales](#), June 2013, page 4. [accessed 14 October 2013]

<sup>10</sup> Welsh Government, [Explanatory memorandum: Control of Horses \(Wales\) Bill](#), October 2013, paragraph 77 [accessed 14 October 2013]

The EM outlines that the actual number of incidents of horse-related nuisance in Wales is difficult to quantify, as reports are received by a variety of different organisations including the police, local authorities and charities. However, agencies dealing with the issue have reported an increase in occurrences, especially during the winter months<sup>11</sup>.

In terms of geographical coverage, the EM states that the problems of fly-grazing are particularly prevalent in south Wales, along the M4 corridor, notably in the local authority areas of Bridgend and the Vale of Glamorgan<sup>12</sup>. However, there is evidence that the problem is increasing in other local authority areas, with reports being received from Dyfed-Powys and Gwent Police forces, as well as local authorities covering Mid Wales.

## 2.2. *Current provision*

Local authorities are largely responsible for the enforcement of the current legislation relevant to the control of horses (although the police have powers relating to the obstruction of the highway). Three local Acts contain legal powers for certain local authorities to seize, impound, dispose and destroy by humane means stray animals found on land in their areas. These provisions are contained in the *Mid Glamorgan County Council Act 1987*, the *Cardiff City Council Act 1984* and the *West Glamorgan Act 1987*. All three existing Acts require seven days' notice to be given to the owner before disposing of the animal through methods other than destruction, and 14 days' notice before the animal can be destroyed.

The EM outlines that other authorities that do not have the benefit of these Acts have to deal with the problem through the use of existing legislation (e.g. the *Animal Welfare Act 2006* and *Animals Act 1971*), which, according to the EM, does not provide an effective solution to the problem and only partly addresses the issue.

Two main shortcomings with the current legislation are identified. The legislation available requires that the identity of the horse owner be known before action can be taken, and the powers to dispose of the animals in a humane manner are available only to those local authorities covered by the local Acts. Furthermore, it is difficult for local authorities to take enforcement action as the majority of horses found fly-grazing are unidentified, and as such the owner is difficult to locate. The Bill would repeal the existing powers in the three local Acts.

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<sup>11</sup> Welsh Government, [\*Explanatory memorandum: Control of Horses \(Wales\) Bill\*](#), October 2013, paragraph 8 [accessed 14 October 2013]

<sup>12</sup> *Ibid.*, paragraph 9.

### 2.3. Welsh Government written statements

In a written statement on **7 November 2012**<sup>13</sup>, Alun Davies AM, who was at the time Deputy Minister for Agriculture, Food, Fisheries and European Programmes<sup>14</sup>, announced that the Welsh Government would be taking steps to tackle the problem of dumped or abandoned horses and ponies, or fly-grazing.

In another written statement a month later, on **7 December 2012**, the then Deputy Minister gave an update on the progress made, and announced a consultation on the possible need for new legislation:

I shall be consulting on the legislation that is currently available and that which may be needed in future to deal with the problem of fly grazing. If the evidence points towards the need for legislative changes I will aim to introduce new legislation as soon as possible<sup>15</sup>.

He added the following in relation to the Department for Environment, Food and Rural Affairs' decision<sup>16</sup> to cease funding the national equine database from September 2012:

I share the disappointment of the members of the Cross Party Group on Defra's decision to cease funding the National Equine Database, a decision which will certainly reduce the enforcement authorities' ability to check and trace owners of horses in the future. **I have written to the Defra Secretary of State to express my views on this decision and the arbitrary way in which it was taken.**

Within the UK, Wales is leading the way on finding a solution to the problem of fly grazing and my officials are sharing the work they are doing on this matter with Defra. There is still much work to be done and with winter beginning there is a fear that the incidence of fly grazing will increase. All agencies involved must be ready to react positively to protect the welfare of horses and ponies, to safeguard the property of landowners and the safety of the general public. *[RS emphasis]*

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<sup>13</sup> Welsh Government, [\*Cabinet written statement: The fly grazing of horses and ponies\*](#), 7 November 2012 [accessed 14 October 2013]

<sup>14</sup> A Cabinet reshuffle on 14 March 2013, during the consultation period for the Bill, resulted in Alun Davies AM being made Minister for Natural Resources and Food. Welsh Government press release, [\*A new team - delivering for Wales in challenging times\*](#), 14 March 2013 [accessed 14 October 2013]

<sup>15</sup> Welsh Government, [\*Cabinet written statement: Statement on the fly grazing of horse and ponies\*](#), 7 December 2012 [accessed 14 October 2013]

<sup>16</sup> MRCVS online, [\*Defra confirm funding withdrawal for NED\*](#), August 2012 [accessed 14 October 2013]

## 2.4. Consultation: 'Fly Grazing and Abandonment of Horses and Ponies'

On **4 March 2013**, the Welsh Government launched an eight-week consultation: 'Fly Grazing and Abandonment of Horses and Ponies: Delivering a Long Term Solution'<sup>17</sup>. The consultation sought to address the question of whether the current legislative framework provided enforcement authorities with the means to deal with the fly-grazing and abandonment of horses in Wales, and asked for views on how to deter large-scale incidents of fly-grazing, and on the possible content of a Bill to tackle the issue.

The consultation document was issued to stakeholders including local authorities, the police forces in Wales, the fire and rescue service, landowners, farmers, farming unions, commoners, equine welfare charities, passport-issuing organisations, owners and/or keepers of horses and the Gypsy/Traveller community.

**A total of 602 responses were received.** Of those, 77 had been received via the official response form published on the Welsh Government's website, and 505 were generic responses believed to have been circulated via social media. Of the 505, 60 were identified as being from countries outside the UK without any direct interest in the matter and as such were excluded from consideration. A further 20 responses were received as letters from individuals or had been included as additional information, or were suggestions as part of the generic responses.

The consultation closed on **29 April 2013**, and a summary of the consultation responses is available on the Welsh Government's website<sup>18</sup>. Here are some key points from the consultation responses:

- Problems are caused by a minority of individuals. Personal experiences of fly-grazing were reported, including intimidation, alleged threats and actual damage to property against individuals and local authorities.
- There were recurrent themes of identification (linking horses to owners), irresponsible breeding and trading.
- The suggestion was made that the definition of fly-grazing be extended to include common land and those with commoners' rights. Concerns were expressed that reference to common land and tethering were missing from the definition, as was any reference to associated intimidation.

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<sup>17</sup> Welsh Government, [Fly Grazing and Abandonment of Horses and Ponies: Delivering a Long Term Solution](#), March 2013 [accessed 14 October 2013]

<sup>18</sup> Welsh Government, [Fly Grazing and Abandonment of Horses and Ponies: Delivering a Long Term Solution](#), March 2013 [accessed 14 October 2013]

- **It was felt that the Welsh Government should address the issue of available powers to find a legislative solution to the problem that would be consistent across Wales.** Several other non-legislative solutions were also proposed, which form the basis of the action plan that the Minister issued with the Bill on 14 October 2013<sup>19</sup>.
- There was support for the resurrection of the national equine database and provision for one central database that records horse passports and change of ownership. Furthermore, an amendment to the horse passport regulations was suggested so that all horses would be microchipped regardless of age. Those commenting on identification felt that freeze branding or hoof branding should be considered in place of microchipping.
- There was also concern that current Acts favour the fly-grazer to the disadvantage of the landowner (as the horses' owners know that they have a minimum of 14 days of free grazing before seizure). Furthermore, under the *Animal Welfare Act 2006*, the landowner/occupier becomes responsible for the welfare of the animals simply by the fact of their being on the land/premises.

## 2.5. *The Welsh Government's legislative programme*

During his announcement on the legislative statement in Plenary on **16 July 2013**, the First Minister, Carwyn Jones AM, stated:

We are aware that fly-grazing, or the abandonment of horses, is an increasing problem for local authorities. The legislation that is currently available to local authorities has proved inadequate to tackle the issues on the scale that we are currently experiencing. **It is therefore proposed that local authorities across Wales be given the tools to enable them to seize, impound and dispose of horses, through selling, re-homing or destruction in a humane manner, as appropriate and where circumstances dictate.** We believe that legislation on fly-grazing and the abandonment of horses and ponies will deliver an effective solution to the problem, by making those individuals who fly-graze horses and ponies accountable for their actions, and through addressing the unacceptable nuisance of fly-grazing that causes social, public safety, economic and environmental harm, and places financial burdens on individuals and the taxpayer. **Legislation that will tackle this problem will be brought forward before the end of this year.**<sup>20</sup> [RS emphasis]

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<sup>19</sup> Welsh Government, [Fly Grazing and Abandonment of Horses and Ponies: Action Plan](#), 14 October 2013 [accessed 14 October 2013]

<sup>20</sup> National Assembly for Wales, [Record of Proceedings, Plenary 16 July 2013](#) [accessed 14 October 2013]

The leader of the opposition, Andrew R.T. Davies AM, replied:

I had a wry smile on my face when I read the statement, and when the First Minister talked about the fly-grazing and the abandonment of horses Bill, because, last year, in the response that he gave to my contribution to the legislative statement, he roundly ridiculed such a suggestion. In fact, he spent a good two or three minutes going on about that being all that we had to offer. Here we are today, and there is such a Bill included—I commend the First Minister for putting that Bill forward, because that is a critical area, certainly in animal welfare terms, that needs addressing.

### 3. Timing

#### 3.1. Key dates

The *Control of Horses (Wales) Bill* was **introduced on 14 October 2013**<sup>21</sup> and the Minister made a legislative statement on its introduction in Plenary on 15 October 2013<sup>22</sup>. The Assembly will debate the Bill's general principles in Plenary on 22 October 2013.

The Business Committee agreed on 24 September to allow the Bill to **bypass Stage 1 committee scrutiny** and for it to be remitted to the Environment and Sustainability Committee<sup>23</sup> for Stage 2 scrutiny (line-by-line scrutiny in committee).

**Stage 2** begins on 23 October 2013 and must be completed by **15 November 2013**.

It is anticipated that **Stage 3 and 4** proceedings will be held in Plenary on **10 December 2013**, or before the Christmas recess, and that the Bill will receive **Royal Assent early in 2014**.

The EM states that **non-statutory guidance** will be developed in conjunction with local authorities and **issued to coincide with the coming into force of the Bill**<sup>24</sup>. Such guidance will include the process and suggested approach that local authorities should take in determining whether an owner is likely to come forward to claim a horse.

#### 3.2. Expedited legislation

**This is the third Assembly Bill in succession to be expedited through Stage 1.** The first was the Agricultural Sector (Wales) Bill<sup>25</sup>, which was subject to emergency procedures, and the second was the National Health Service Finance (Wales) Bill<sup>26</sup>.

In a letter to the Chair of the Constitutional and Legislative Affairs Committee, dated 24 September 2013, the Minister stated why the Bill had been fast-tracked:

to provide local authorities across Wales with the relevant powers and necessary tools to deal with the nuisance of fly grazing in time for the coming winter months, when this problem is often at its height.

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<sup>21</sup> Welsh Government, *Cabinet written statement: Control of Horses (Wales) Bill*, 14 October 2013 [accessed 14 October 2013]

<sup>22</sup> National Assembly for Wales, *RoP - Plenary 15 October 2013* [accessed 16 October 2013]

<sup>23</sup> National Assembly for Wales, *Environment and Sustainability Committee*, [accessed 14 October 2013]

<sup>24</sup> Welsh Government, *Explanatory memorandum: Control of Horses (Wales) Bill*, October 2013, paragraph 43. [accessed 14 October 2013]

<sup>25</sup> *Agricultural Sector (Wales) Bill*, [accessed 14 October 2013]

<sup>26</sup> *National Health Service Finance (Wales) Bill* [accessed 14 October 2013]

I am conscious that in seeking to ensure the Bill completes all stages of Assembly consideration before Christmas Recess, so as to allow the Act to come into force in January (subject to Royal Assent), your Committee will not be given the opportunity of the usual Stage 1 scrutiny process. However, I would like to offer to attend a meeting of the Committee to give evidence prior to the debate on the general principles of the Bill which is set for 22 October, if that would be helpful<sup>27</sup>.

The Minister, therefore, arranged to appear before the Environment and Sustainability Committee on 16 October 2013<sup>28</sup>, the Finance Committee on 17 October<sup>29</sup>, and the Constitutional and Legislative Affairs Committee on 21 October<sup>30</sup> prior to the Plenary debate on 22 October<sup>31</sup>.

During the First Minister's statement on the Welsh Government's legislative programme in Plenary on 16 July 2013, the leader of the opposition, Andrew R.T. Davies AM, referred to the need for 'a speedy passage' for the Bill:

It is noted that, today, emergency powers have been used to ram a Bill through this Assembly, much to our regret, but I believe that **much of the regulatory improvement proposed by that fly-grazing Bill could be required this winter, if we have a particularly bleak and hard winter**, and rather than allowing animals to suffer another winter of unfortunate conditions, with death and other animal welfare issues inflicted upon them, **I hope that the First Minister and his Minister will reach out to the opposition parties to try to instigate a speedy passage for that Bill**, so that local authorities are able to implement the new legislation.<sup>32</sup> [RS emphasis.]

The First Minister replied:

He talked of the issue of fly-grazing. I am not sure whether he was suggesting that he would support an emergency Bill in relation to fly-grazing, so I will not hold him to that, but he stressed the urgency of the need to take forward legislation. We are aware of that, in terms of the effect that it has had on so many people across south Wales particularly, but not exclusively.<sup>33</sup>

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<sup>27</sup> National Assembly for Wales, [Constitutional and Legislative Affairs Committee - correspondence](#) [accessed 14 October 2013]

<sup>28</sup> National Assembly for Wales, [Environment and Sustainability Committee agenda for 16 October 2013](#). [accessed 14 October 2013]

<sup>29</sup> National Assembly for Wales, [Finance Committee agenda for 17 October 2013](#). [accessed 14 October 2013]

<sup>30</sup> National Assembly for Wales, [Constitutional and Legislative Affairs Committee agenda for 21 October 2013](#). [accessed 14 October 2013]

<sup>31</sup> National Assembly for Wales, [Plenary agenda for 22 October 2013](#), [accessed 14 October 2013]

<sup>32</sup> National Assembly for Wales, [Record of Proceedings, Plenary 16 July 2013](#) [accessed 14 October 2013]

<sup>33</sup> Ibid.



## 4. The Bill

### 4.1. Policy aims and objectives

The *Control of Horses (Wales) Bill* aims to achieve the following objectives:

- to work towards ‘establishing a fly grazing free Wales’;
- to give all local authorities in Wales the same legal powers to seize, impound, sell, dispose of and humanely destroy (after certain notifications and time limits) horses found to be causing a nuisance by fly-grazing;
- to enable all local authorities to work together to protect the public and the environment from the nuisance caused by the practice; and
- to provide a remedy to the problem of seized but unidentifiable horses being sold and bought back at minimal costs by those believed to be their original owners, and then found to be causing a nuisance by fly-grazing once more.

### 4.2. Competence

The National Assembly for Wales has legislative competence to make the Bill under section 108 of, and Part 1 of Schedule 7 to, the *Government of Wales Act 2006*<sup>34</sup>, under the following subjects:

- Subject 1: Agriculture, forestry, animals, plants and rural development
- Subject 6: Environment
- Subject 10: Highways and transport, and
- Subject 12: Local government.

### 4.3. Provisions

The *Control of Horses (Wales) Bill* is relatively short and contains **10 sections**. Each section is summarised below:

- **Section 1 (Overview)** gives an overview of the Bill, summarising what local authorities are permitted to do when horses are in public places or other land without the consent of the occupier or without lawful authority.
- **Section 2 (Power of local authorities to seize horses)** provides that a local authority may seize and impound a horse, provided the local authority has reasonable grounds to believe the horse is there without lawful authority.

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<sup>34</sup> [The Government of Wales Act 2006](#) (c.32) [accessed 14 October 2013]

- **Section 3 (Notices about seizure etc.)** sets out the steps that a local authority must take after seizing a horse. These include posting written notices at or near the place where a horse was seized, stating the date and time of the seizure and contact details for the local authority. A local authority must also give written notices within 24 hours to any person who appears to be the owner, or a person acting on behalf of the owner, of a horse that has been seized, as well as to the police.
- **Section 4 (Costs of seizure etc.)** makes the owner of a horse liable for any costs reasonably incurred by a local authority in the seizure and impounding of the horse, as well as in feeding and maintaining it while it is impounded. The local authority is not required to return the horse until such costs are paid.
- **Section 5 (Disposal of impounded horses)** provides that a local authority may sell or dispose of a horse (including arranging for its destruction) if neither the owner nor a person acting on behalf of the owner has contacted the local authority within the set timescale, or if contact has been made but the relevant costs have not been paid. Any proceeds may be used to pay for the costs incurred under section 4, with the remaining balance to be paid to the owner of the horse. However, any additional costs incurred (e.g. in the destruction of a horse) will be added to the costs for which the owner is liable.
- **Section 6 (Record of horses dealt with)** provides that a local authority must keep a publicly accessible register of all the horses seized by it under section 2.
- **Section 7 (Appeals)** provides that the Welsh Ministers may, by statutory instrument, make regulations providing for a right of appeal relating to any matter arising under the legislation.
- **Section 8 (Consequential repeals)** sets out provisions contained in the three local Acts that will cease to have effect, as they will be unnecessary as a result of the coming into force of the Bill. These repeals are as follows:
  - a) section 29 of the *Cardiff City Council Act 1984* (c. xv);
  - b) in section 15(8) of the *Mid Glamorgan County Council Act 1987* (c.vii), the words “horses (including ponies, mules, jennets),”; and
  - c) in section 35(7) of the *West Glamorgan Act 1987* (c. viii), the word “horses”.
- **Section 9 (Interpretation)** defines the meaning of ‘horse’ and ‘local authority’ for the purpose of the Bill.

- **Section 10 (Commencement and short title)** provides that the entire Bill will come into force on the day after it receives Royal Assent, and gives its short title.

#### *4.4. Implementation and review*

The Government has given the following indicative timetable for the commencement and implementation of the Bill:

- **early December 2013:** Bill passed, subject to the will of the Assembly;
- **early 2014:** Royal Assent received, with provisions commencing immediately on Royal Assent, by virtue of section 10 of the Bill. This could be as early as **January 2014**<sup>35</sup>.

The EM also states that the Welsh Government will review the legislation two years on from the date of Royal Assent, or sooner if necessary<sup>36</sup>. In addition, any non-statutory guidance issued under the Bill will be kept under review so that it may develop over time and in response to experience of operation<sup>37</sup>.

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<sup>35</sup> Welsh Government, [\*Explanatory Memorandum: Control of Horses \(Wales\) Bill\*](#), October 2013, paragraph 42 [accessed 14 October 2013]

<sup>36</sup> *Ibid.*, paragraph 136.

<sup>37</sup> *Ibid.*, paragraph 43.

## 5. Financial implications

The Regulatory Impact Assessment ('the RIA') contained within the explanatory memorandum accompanying the Bill sets out provisional costs for three options.

**Option 1** is to do nothing, and the RIA states that the costs resulting from fly-grazing would continue to increase if legislation is not introduced. While the costs resulting from fly-grazing for the whole of Wales are not included in the RIA as they are not currently centrally available, **costs incurred by enforcement agencies in the parts of south Wales where fly-grazing is said by the Welsh Government to mainly take place are estimated to have been £1.2 million since November 2011.**

**Option 2** is to introduce non-statutory guidance, aimed at encouraging responsible horse and pony ownership. The one-off cost to the Welsh Government of developing this guidance would be **approximately £11,000, made up entirely of staff costs.**

**Option 3, the preferred option,** is to introduce primary legislation and supporting guidance. **This would mean that the costs incurred for the guidance in option 2 would still be incurred.** In addition, there would be a one-off cost to the Welsh Government and the Welsh Local Government Association of **up to £450,000 to set up a call-off contract to provide secure accommodation for horses seized by local authorities. This would then incur running costs of up to £300,000 per annum in following years.** The Welsh Government states that these costs represent the maximum possible costs.

The EM outlines that some local authorities who are already using the local Acts<sup>38</sup> have already adopted the good practice of posting notices on sites where horses have been seized, and are also keeping a record of impounded horses. These local authorities will not incur any additional costs as a result of the Bill. **However, the remaining local authorities will incur transitional costs related to posting notices and recording. It is estimated that the cost to these authorities of setting up a method of recording impounded horses will be around £500 for all authorities.** Additionally, the costs of officer time to post notices will be approximately £50 to 100 per occurrence, while recording the details of each horse to comply with the Bill will cost approximately £2.50 to £4 per horse.

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<sup>38</sup> The current Acts in place locally to tackle fly grazing in parts of south Wales are the *Cardiff City Council Act 1984*, the *Mid Glamorgan County Council Act 1987* and the *West Glamorgan Act 1987*. The relevant provisions in these Acts to allow the local authorities to seize, impound stray animals found in land in their areas, and to dispose of and destroy by humane means will be repealed once the Bill comes into force.

The RIA also indicates that it is unlikely that costs relating to paying the local authority's costs will fall upon the majority of horse owners as they care for their animals responsibly, and so it does not attempt to quantify those costs. However, it does state that costs to initiate an appeal where the level of reasonable costs is disputed are estimated to be approximately £10.

The RIA gives examples of the benefits that could arise from the legislation from reduced costs to local authorities and other organisations. However, it does not quantify the total amount of benefit that these organisations would derive from the legislation through reduced fly-grazing and the costs recovered by local authorities from identified owners of fly-grazing horses.

**Table 1: Summary table of the transitional and recurring costs of implementing each option**

	Option 1	Option 2	Option 3
<i>£</i>			
<b>Transitional costs</b>			
Developing non-statutory guidance (Welsh Government)		11,000	11,000
Setting up a call off contract to provide secure accommodation for seized horses (Welsh Government and WLGA)			450,000
Establishing method of recording impounded horses (local authorities)			500
<b>Recurring costs</b>			
Posting notices at sites of seizure and recording details of seized horses (local authorities)			£52.50 - £104 per horse
Running costs of secure accommodation for seized horses (Welsh Government and WLGA)			300,000
Cost to horse owners of appealing disputed reasonable costs			£10 per appeal
Potential cost to Welsh Government if appeals are determined by the Welsh Ministers			£60 per appeal
			<b>£761,500 plus</b>
<b>Total</b>	<b>No additional costs</b>	<b>11,000</b>	<b>additional costs per seized horse or appeal</b>

Source: Welsh Government, [Explanatory Memorandum – Control of Horses \(Wales\) Bill](#), 14 October 2013, paragraphs 75 to 105 [accessed 14 October 2013]

The Welsh Government, in its draft budget for 2014-15, stated the following in respect of the Bill:

The Control of Horses (Wales) Bill will provide all local authorities in Wales with the same legal powers to seize, impound, sell, dispose and destroy horses by humane means, and after certain notifications and time limits, when they are found causing nuisance by fly grazing in a local authority area. **We have allocated £0.25m in 2014-15, which will be used to see the Bill through to fruition, erect fences and provide security and management during this first year.** This funding has been earmarked within the Delivering Programmes within the Rural Development Plan Action.<sup>39</sup>

<sup>39</sup> Welsh Government, [Draft Budget 2014-2015—Priorities for Wales](#), paragraph 14.22, 8 October 2013 [accessed 14 October 2013]

## 6. Reactions

The Minister, Alun Davies AM, made a legislative statement introducing the Bill to Assembly Members in Plenary on 15 October 2013. A full transcript is available<sup>40</sup>, but the following is a selection of Members' responses.

I hope Members will share with me my desire to provide local authorities for the first time with the appropriate tools to deal with the issue of fly-grazing and abandonment of horses. In doing so, we will remove much of the costly, resource-intensive and unsustainable economic burden that has fallen on local authorities, the emergency services, animal welfare charities and members of the public. [...]

The Bill has been welcomed by local authorities across Wales, as well as animal welfare organisations and horse charities, where resources and space within rescue centres is severely limited, due in no small part to the problem of abandoned horses. Over the last three years, many establishments such as the Royal Society for the Prevention of Cruelty to Animals, World Horse Welfare and Redwings have seen a sharp increase in horses needing to be rehomed. These organisations see the benefit of a national approach and, for local authorities, it means being able to act faster, to save money and to recoup costs.

Several Members raised the issue of the Bill's bypassing of Stage 1, including the Welsh Conservatives' spokesperson, Antoinette Sandbach AM:

I agree that it is an important Bill, and it addresses an issue that has serious implications on the agriculture industry, landowners, animal welfare and public safety. **However, I am concerned at the process that is being used to bring this Bill forward.** [...] You are aware that Stage 1 committee consideration has been excluded by the process by which this Bill is being taken forward. That is the first opportunity to engage stakeholders and to invite representations, and it is the point at which evidence-based reports are produced, and recommendations are laid out, by the committee. It sets the basis on which other amendments, scrutiny and debates are founded. **Failure to allow for the Stage 1 proceedings brings forward concerns that it prevents proper engagement with stakeholders.** [...]

I am sad to say that you have form for this, Minister, because you will remember the agricultural wages Bill, which came forward under the emergency Bill procedure, and the problems associated with that. I appreciate that the emergency Bill procedure has not been advised here, but in avoiding Stage 1 committee considerations, we are running the risk of inadequate scrutiny, and it is important that that is said. **It is for that reason that I would like you to explain to us why you have delayed to the point that the expedited procedure was required here. It has been nearly a year since you issued a statement outlining your intention to produce your policy on fly-grazing, and six months since the consultation on fly-grazing closed.** [*RS emphasis*]

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<sup>40</sup> National Assembly for Wales, [Record of Proceedings, Plenary 15 October 2013](#) [accessed 16 October 2013]

Also speaking for the Welsh Conservatives, Janet Finch-Saunders AM went on to say:

This is so serious an issue that I am amazed that, now that we have extra powers in this institution, you are bypassing Stage 1. In the Bills that I have sat through, Stage 1 was one of the most important stages, because it really does deal with the devil, or otherwise, in the detail of any Bill coming forward. I think that there is a bit of arrogance, actually, in bypassing that stage.

The Minister replied by stating that:

In terms of where we are in this process, this legislation has been born from a process of debate, discussion and conversation with the equine community across Wales. We have been involved in discussions with people who have real expertise in and knowledge of the field and people who deal with this on a day-to-basis, whether local authorities, the police, animal welfare charities or others. Therefore, this legislation has been born from their knowledge and their experience.

The Plaid Cymru spokesperson, Llŷr Gruffydd AM,

May I start by supporting the need to tackle the issue of fly-grazing and welcome the fact that the Government has introduced legislation to that end? However, I want to endorse the disappointment of previous speakers that the Minister has had to do it in this way once again. That is not the ideal way in my opinion. **It is regrettable, in all honesty, that we find ourselves in this situation because animal welfare organisations have been warning for many years that there is an increasing problem that needs to be tackled.** However, we are in a situation where we do have to limit as much as possible the suffering that several of these animals will be going through of the winter months. **I am not happy or comfortable with doing it in this way, but given the circumstances, I feel that I have to play my part in finding the best possible resolution to the situation as it currently exists in the brief window of opportunity available to achieve that. I would ask the Minister just to acknowledge that this is not the best approach to deal with this issue, and to demonstrate that he does share the concern of many of us that we have to use these emergency measures once again to produce legislation in the Assembly.** [*Translation*] [*RS emphasis*]

The Minister replied:

When it comes to using processes and the way in which this Bill has been introduced, I think that **the people of Wales will expect the National Assembly to be able to respond quickly enough to problems and issues that they feel are important.** We could say that every Bill had to go the same way through the process, which can be quite a lengthy process, but I do think that, sometimes, the people of Wales expect the Assembly to respond at a quicker pace than that. **When I see that there is a problem, if I were to say here that it was going to take 18 months for the Bill to reach the statute books, the people of Wales would ask, 'Well, what are you doing down there in the bay?'** Sometimes, the Assembly should operate in this way to ensure that we have legislation on the statute book that can respond to the challenges that we face in communities across Wales. That means that we have two months, or three months since we had this discussion, to discuss this Bill. [*Translation*] [*RS emphasis*]

The spokesperson for the Welsh Liberal Democrats, William Powell AM, stated:

Naturally, I share some of the reservations that have already been expressed by Antoinette Sandbach and Llyr Gruffydd with regard to the mechanism that is being adopted. **I think that the pre-eminent concern here has to be around animal welfare.** Many of us are still haunted by the images from last winter and the early spring in terms of the sheep welfare crisis in Mid and West Wales and North Wales. We do not want to see that replicated again with regard to horses. *[RS emphasis]*

He also made the suggestion of using the Bill to develop a charging regime, to serve as an effective deterrent:

does the Minister agree that there will be merit in using this Bill to develop a charging regime under which it will always cost more to recover a horse from a local authority than it would have cost to use reasonable local livery stables or equivalent facilities? **Taken as a whole, I would argue that the most basic premise of this Bill must be to ensure that fly-grazing is never seen by offenders as a cheap or easy option.** *[RS emphasis]*

A number of external organisations and stakeholders have expressed a view on the Bill, in the main welcoming it. For example, Steve Carter, the RSPCA's national director for Wales, stated:

**While not a panacea, we believe this is a positive step toward tackling the equine crisis in Wales and fully support the Minister's decision to legislate.**

We hope the legislation will provide local authorities with a consistent and effective way of dealing with incidents of fly-grazing and abandonment but will also allow for a multi-agency approach to the problem. Successful convictions, like that of horse trader Tom Price, are dependent on **coordination between all agencies and this approach remains essential to improving enforcement and welfare.** [...]

**Any delay to this Bill could leave animals to suffer throughout the coming winter.** We look forward to working with the Welsh Government and Assembly Members as this Bill progresses through the Assembly<sup>41</sup>. *[RS emphasis]*

Some also expressed concern that it could transfer the problem to England. In an interview for the Farmers Weekly, the NFU's chief rural affairs adviser, David Collier, said:

There is a danger that Wales's gain will be England's loss, as the problem is displaced eastwards. This makes the need for action in England as well as Wales more urgent than ever<sup>42</sup>.

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<sup>41</sup> RSPCA news, [RSPCA Cymru welcome Welsh Government action to stop fly-grazing](#), 14 October 2013 [accessed 15 October 2013]

<sup>42</sup> Farmers Weekly, [Make fly-grazing a criminal offence, says NFU](#), August 2013 [accessed 14 October 2013]



Lynn Cutress, chief executive of horse sanctuary Redwings, also stated that:

At Redwings we have seen many examples over the last few years, from low level neglect to abandonment and worse.

**We would urge Westminster to follow suit** so we can see a real and drastic improvement in the lives of vulnerable horses throughout the UK.<sup>43</sup> [*RS emphasis*]

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<sup>43</sup> BBC News website, [\*Illegal horse grazing Bill published by Welsh government\*](#), 15 October 2013 [accessed 15 October 2013]