
LEGISLATION

DANGEROUS WILD ANIMALS ACT (1976) REVIEW (2001): SUBMISSION ON BEHALF OF THE BRITISH HERPETOLOGICAL SOCIETY

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DURING December 2000, agents of the Department of the Environment, Transport and Regions (DETR) asked the BHS to submit views and recommendations for the review (2001) of the Dangerous Wild Animals Act (1976). The following article is a slightly amended version of the BHS submission, made in January 2001. The outcome of the review will be conveyed to members in a later issue of the Herpetological Bulletin.

The BHS has been involved with the Dangerous Wild Animals Act (DWA) and the listing of species since the legislation was originally being formulated (pre-1976) and during the 1984 review. This Society has maintained a substantially consistent view over the past 25 years on both the administrative aspects of the legislation and the listing of species. The difficult issues surrounding the DWA were thoroughly re-examined at a recent meeting of the BHS Captive Breeding Committee, and later by the BHS Council and at the 2001 Annual General Meeting.

While the Society has supported the principal of legislation for the control, licensing and safe-keeping of potentially dangerous animals from the very beginning, we consider the legislation to be seriously flawed, both with regard to the administration/implementation of the Act and the arbitrary and unscientific listing of species. The Act was clearly intended to control the keeping of overtly dangerous animals, principally with regard to public safety (not that of the keeper). Mr. Peter

Thomas and Mr. Peter Temple-Morris were sponsors of the Bill. Hansard records (14.05.76.), quote Mr. Thomas 'The Bill is concerned with public safety and its basic philosophy is that an animal must be so obviously dangerous that one must do something to prevent its being kept by a private individual, except in exceptional circumstances', and in another excerpt, animals (listed) must be ...'recognised universally as dangerous'.

I have served both on the original expert advisory committee to the Government and at the 1984 review, and have been dismayed by the over-representation of groups attempting (and to some extent, succeeding), to mis-use the Act. This has been done by listing as many species as possible as 'dangerous', in order to restrict or ban the keeping and trade in so-called 'exotic' animals. This problem was particularly evident at the 1984 review, where the RSPCA and their legal representatives produced a large additional list of species for inclusion including tortoises, terrapins, some amphibians and other innocuous species, on spurious public health grounds. The BHS feels that it is essential that an objective, scientific and evidence-based system is used for the listing of species, and that final decisions concerning whether or not to list should not depend on some kind of horse-trading with powerful animal rights/welfare groups with a separate agenda.

One of the enduring difficulties has been the lack of a definition of the term 'dangerous'.

Although it is clear from Hansard that Parliament intended this to mean overtly dangerous animals, there is no attempt to define or discuss this in the Act. We believe there are two important considerations when assessing the level of danger that an animal may pose, one being 'potential' and the other being 'likelihood of attack/exercise of potential'. The Captive Breeding Committee agreed that the terminology used in the Animals Act (1971) is appropriate for the DWA ... 'fully grown animal normally having such characteristics that they are likely, unless restrained, to cause severe damage'. The listing under the DWA of harmless species such as tamarins, squirrel monkeys, talapoin monkeys, aardvarks, small felids, capybara, mangrove snakes, vicuna and others has undoubtedly damaged the credibility of this legislation and contributed to a significant level of non-compliance. The BHS has no information on the level of compliance of its members, although we have been informed by other animal keeping groups that compliance may be as low as 5% of those to whom the Act applies.

ADMINISTRATION ISSUES

If this legislation is to stand any chance of working effectively, then the administrative aspects really must be sorted out and be seen to be working in a fair and uniform manner.

The responsibility for administration currently lies with local authorities where there have been major problems with interpretation of the legislation, costs and attitudes. Some authorities are charging fees of up to £1200 plus veterinary fees (the applicant will also have to pay for insurance), and some officials have a negative approach to licence applications. I know of at least one authority which does not approve of the keeping of 'exotic' animals and will make it as difficult as possible to obtain a licence, and another authority which will ask neighbours up and down the street if they object to the applicant keeping a listed animal; this procedure will invariably result in an objection. We do not believe that it was the intention of Parliament that local authorities should operate in this way, particularly with regard to fees;

quoting from Hansard (16.07.76.), Mr. Peter Temple-Morris, 'Concern was expressed in another place that local authorities should be given guidance or at least an intimation that it was not the Bill's intention that fees should be used as a weapon to prevent people applying for licences or keeping the animals covered by them. This intimation ... is that it will be a fee which is sufficient to meet the direct and indirect costs that may arise as a result of the application'.

From the point of view of the prospective keeper, applying to a local authority for a licence may be a daunting prospect. An application may result in an unwelcome intrusion into the home by unsympathetic local government officials or their agents, the imposition of unreasonable conditions and/or insistence on unnecessary facilities by persons not sufficiently knowledgeable of the appropriate husbandry or safety requirements, and the imposition of possibly punitive costs. In practice, these factors may result in a *de facto* ban for some applicants who want to keep within the law, while others, presumably otherwise honest citizens, will be discouraged from applying and become criminalised, with their animals not controlled.

The BHS feels that there should be an expectation that a licence application will be granted (ie. a right to a licence) if the applicant meets a set of standard conditions, unless there are exceptional circumstances (for example, the applicant has convictions for animal cruelty, or nuisance behaviour, or other pertinent factors). Fees must be set or capped at a reasonable level. A fee of £75 was recommended as a maximum level (even this is relatively expensive when compared to the cost of other types of licences). If local authorities argue that the costs are greater than this, then they are probably spending too much time/bureaucracy on the application, since the actual practical inspection is carried out by vets and charged separately. Unless there are particular problems, the veterinary fees should be restricted to the costs of a standard home visit. I have witnessed the veterinary inspection of venomous snake facilities, and, as one might expect, there is very little for the vet to do except to observe that the facilities remain as agreed and briefly look (from the outside) at the animals within.

Overall, the BHS believes that the DWA would be better administered centrally and in a standard manner by the DETR, perhaps using experienced Wildlife Inspectors operating with a simple set of guidelines. This would obviate the need for veterinary inspections and, since this legislation is primarily concerned with public safety, there would be no need or role for the vet unless the animal became sick (it is illogical to argue that a 'dangerous' animal requires regular veterinary inspection by law and that a non-dangerous animal does not).

SCHEDULE OF SPECIES

The Captive Breeding Committee was unanimous and felt strongly that no further reptiles and no species of amphibian should be added to the DWA schedule; the Committee felt equally strongly that a number of species had been inappropriately listed.

In the absence of any definition of the word 'dangerous' in the DWA, for the sake of our discussions the Committee decided to compare the threat posed by certain reptiles to that of a medium sized (or larger) domestic dog as a 'standard' - this, we believe, poses a level of danger considerably lower than that intended by Parliament for the DWA (see Background and Introduction). On the whole, society quite happily accepts the very small risks of exposure to the domestic dog, which has the ability to run down its victims and the potential to cause serious injury or rare fatalities. This animal is usually taken into the public arena on a daily basis, in contrast to captive reptiles, which would not normally enter the public arena at all.

Species inappropriately listed on the DWA, that should be removed

Mangrove Snake (*Boiga dendrophila*). This species was discussed at the 1984 review. While certain other back-fanged snakes (Mole Viper, Twig Snake, Boomslang) were proposed by the BHS for inclusion under the DWA, we were opposed to the inclusion of the Mangrove Snake as there is no evidence that it is dangerous. It

would appear that it was proposed by others simply because this species was in trade. Mangrove Snakes have been kept in large numbers in the UK, continental Europe and the USA for over 30 years. Although often irascible at first, resulting in harmless bites, this species usually settles well in captivity. As far as we are aware, there has not been a single serious envenomation due to this species and there is no justification for its inclusion under the DWA.

Dwarf Crocodile (*Osteolaemus*) and Dwarf Caimans (*Palaeosuchus*). The adult size of these species is only 1-1.5 m and they cannot pose a significant threat to the public, should they escape. These crocodiles are listed on Appendix I and II of CITES respectively, so that trade/availability of these animals is already strictly controlled. However, the additional inclusion under the DWA imposes a considerable unnecessary burden of cost, bureaucracy, insurance, transportation problems, etc. on the keeper. These are relatively clumsy animals, which, even if they escape from their enclosure, would be unlikely to escape from the house. Outside they will attempt to hide and rapidly cool to become torpid. If approached, a dwarf crocodile may hiss or attempt to move away, or may bite if interfered with. However, this bite would be less serious than that posed by our domestic dog 'standard', while the crocodile has no ability to run down/jump up and attack its victim in the manner of a dog.

The Committee agrees with all of the larger species of crocodiles remaining listed (although we feel that this should be on a size basis of over 1.5 m), however we strongly recommend the de-listing of the dwarf species.

BHS RESPONSE TO CONTENTIOUS PROPOSALS BY OTHER ORGANISATIONS

We have been made aware that certain animal rights groups have proposed that all reptiles and amphibians be included under the DWA. This is a ludicrous proposal and is obviously based on

their separate agenda, which is to prevent the keeping of and trade in these animals. Proposals on spurious grounds must be resisted at all costs.

Comments on particular groups:

Large lizards (non-venomous). Green Iguanas and various Monitor Lizards are widely kept and pose no threat to public safety. Arguably, the only potentially dangerous lizard is the Komodo Dragon (*Varanus komodoensis*) when in a wild situation, where its bacterially infectious bite can eventually weaken and bring down larger prey. The Komodo Dragon is listed on Appendix 1 of CITES and we are not aware of any specimens in private hands in the UK. However, an escaped captive animal would rapidly cool and seek shelter; it would be very unlikely that it would carry the oral bacterial fauna of a wild specimen, and extremely unlikely to attack humans.

Large constricting snakes. The larger constricting snakes were discussed in detail pre-1976 and in 1984, and on both occasions the expert committee concluded that although these animals might be unfamiliar and scary to some people, they were of no significant threat to public safety. The BHS agrees with this view and would strongly oppose the inclusion of these snakes under the DWA legislation. The fact that no one has ever been seriously injured or killed by a large boid in the UK provides good evidence of minimal risk. The big snakes are extremely popular captive animals, and although the Society does not have specific information about how many are kept in this country, it is thought to be in the tens of thousands (a recent Mintel survey estimates there are 1.6 million reptiles kept in the UK). Evidence from other countries is also reassuring - there are some millions of these snakes kept globally, the largest numbers in the USA, and both eastern and western Europe. As far as we can determine there has not been a single fatality to a member of the public from an escaped large constrictor at any time. We are aware of a very small number of unfortunate incidents involving the keeper, usually because of procedural errors at feeding time, in the USA.

An escaped snake will rapidly become lethargic and seek a place to hide. Snakes tend to have fixed behaviour patterns, such as defensive behaviour (biting), or feeding behaviour (biting and constricting). These snakes do not normally recognise humans as food, and if approached or interfered with, an escaped large constrictor may move away, hiss or bite, but not attempt to constrict. In fact we do not know of a single instance where this has happened. Boids have small needle-like gripping teeth and the jaws are rapidly released following a defensive bite, which is likely to be significantly less damaging than our standard domestic dog (capable of lethal bites). The snake also does not have the capability to chase and run-down its victim.

We are aware that at least one Environmental Health Officer would like to see large snakes listed, as a means of reducing numbers being kept, mainly because of the inconvenience which may be caused in the rare event of an escape; the RSPCA want them listed along with all other reptiles and amphibians. Any objective analysis of the evidence concerning the threat to public safety from these snakes can only come to the conclusion that the risks are minuscule, and significantly less than those posed by some domestic animals such as dogs, cats (suffocation of babies), and horses, or common farmed animals such as Jersey cows, rams, pigs and goats.

The Committee did discuss at some length, the likely outcome of including large snakes under the DWA. It was felt that the consequences would be serious and counterproductive, with a large number of snakes abandoned or destroyed, and with an equally large number going 'underground', with very few applications for licences forthcoming. Animal keepers (or anyone else) are not likely to respect or comply with laws if they are seen to be unreasonable in their content and/or unfair in their application.

Certain amphibians. In 1984, the RSPCA proposed that certain amphibians, including poison-arrow frogs, should be listed under the DWA, and we understand that some individuals and groups are now proposing that some species

be listed in the current review. We regard such proposals to be absurd and believe that no amphibians pose a threat to public safety. A small number of species may have highly toxic chemicals in their skin, thought to be a defence against being eaten by predators and against microbial infection through their soft and permeable skins. However, to be an effective threat against humans, these chemicals would have to be extracted and delivered to the tissues or blood-vessels of the victim (i.e. via a dart or needle). The frogs themselves have no such delivery system. If they escape from their damp tropical tank they will desiccate quickly in a normal room, and will survive only a short period outside. Eating these animals is not recommended and we do not regard this as a credible threat to public safety. In addition, there is now good evidence that the toxins found in the skins of these frogs are rapidly lost in captivity, and not present in captive-bred individuals. It is believed that these chemicals are probably not synthesised *de novo*, (Daly, 1998, *Journal of Natural Products* 61, 162-172), but are acquired from their natural arthropod diet, which in turn acquire them from certain forest plants.

RECOMMENDATIONS

1. Administrative aspects of the DWA must be overhauled and made to operate in a fair and uniform manner. We would prefer to see the legislation administered centrally by the DETR by Wildlife Inspectors, and taken out of the hands of the myriad of local authorities and vets. However, if local authorities continue to administer the DWA, then guidelines should be issued by Government to ensure that authorities are normally obliged to issue licences when conditions are met, at set (or capped) fees and in a minimally bureaucratic manner.
2. Mangrove Snakes (*Boiga dendrophila*), and Dwarf Crocodiles (*Osteolaemus*) and Dwarf Caimans (*Palaeosuchus*), should be

removed from the schedule as they pose no significant threat to public safety.

3. We are strongly opposed to the addition of any further reptile species or any amphibian species to the DWA schedule. Experience of the past 40 years of large-scale reptile and amphibian keeping in the UK (including nearly 25 years of the DWA), provides strong evidence that there is no justification for further species to be listed.
4. We recommend the formation of a scientific working group in order to develop and agree upon an objective criteria based definition of the term 'dangerous'. This group should comprise of expert scientists, vets, animal keepers and administrators.

CONCLUSIONS

Thankfully, the DWA does seem to have controlled the disturbing trend in the 1970's to keep lions in the back garden. However, a combination of mal-administration and the mis-use of the Act to schedule relatively innocuous species, has seriously undermined its credibility and lead to a high level of non-compliance. This type of legislation is often difficult to enforce, and cannot work unless it has the general support of animal keepers and is seen to be objective, reasonable and fair. Our collective experience over the past 40 years of wide-scale reptile and amphibian keeping, where not a single member of the public has been seriously injured or killed by one of these animals, allows us to draw the important conclusion that the threat posed to public safety by captive reptiles and amphibians is immeasurably small. The BHS would like to see an improved and workable DWA with a high level of compliance, resulting in better control of genuinely dangerous animals. We very much hope that this review will provide the opportunity to make the necessary changes.