EXPLANATORY MEMORANDUM TO

THE ANIMAL WELFARE (PRIMATE LICENCES) (ENGLAND) REGULATIONS 2023

2023 No. [XXXX]

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of His Majesty.

2. Purpose of the instrument

2.1 The instrument introduces a new licensing regime under the Animal Welfare Act 2006 for the purpose of promoting the welfare of primates kept in England where they are not kept under a zoo licence or a licence under the Animals (Scientific Procedures) Act 1986 (relevant licences).

2.2 The licensing regime sets out minimum welfare standards that keepers of primates will need to meet.

2.3 The licensing regime will be implemented and enforced by local authorities.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Extent and Territorial Application

4.1 The extent of this instrument is England and Wales.

4.2 The territorial application of this instrument is England.

5. European Convention on Human Rights

5.1 The Right Honourable Lord Benyon, Minister of State (Minister for Biosecurity, Marine and Rural Affairs) has made the following statement regarding Human Rights:

"In my view, the provisions of the Animal Welfare (Primate Licences) (England) Regulations 2023 are compatible with the Convention rights."

6. Legislative Context

6.1 The Animal Welfare Act 2006 makes provision to protect animals from harm and to ensure that their welfare needs are met. The Animal Welfare Act 2006 applies to animals of a kind that are commonly domesticated in the British Islands, that is under the control of man whether on a permanent or temporary basis or is not living in a wild state Section 4 of the Animal Welfare Act 2006 makes it an offence for a person who is responsible for an animal to cause the animal unnecessary suffering. Section 9 requires a person who is responsible for an animal to provide for the animal's welfare needs in line with good practice.

6.2 This instrument is made under section 13 of the Animal Welfare Act 2006. Section 13 allows the Minister of State to make regulations in relation to England to license activities involving animals for the purpose of promoting the welfare of those animals.

6.3 The licensing regime will apply to the keeping of primates in England except where the primates are being kept under a licence granted under the Zoo Licensing Act 1981 (c. 37) or the Animals (Scientific Procedures) Act 1986 (c. 14).

7. Policy background

What is being done and why?

7.1 As part of the flagship Action Plan for Animal Welfare, the government committed to protecting wild animals by making it illegal to keep primates as pets. These species have complex welfare and social needs, which experts believe cannot be met in a domestic environment. The Animal Welfare (Primate Licences) (England) Regulations 2023 fulfils our Action Plan for Animal Welfare commitment and undertakings given by the 2019 Call for Evidence 'Welfare of primates as pets in England', and the 2020 and 2023 consultations on Primates as Pets in England.

7.2 Primates are often kept in unsuitable conditions and kept by owners who are uninformed about the animals' complex welfare needs (which can be difficult to meet in a domestic environment). Enforcement action by local authorities is limited by the lack of awareness of where most primates outside zoos are kept. Charities and rescue centres have confirmed that primates transferred to them have often been diagnosed with physical and behavioural problems resulting from poor private keeping. These problems include broken bones, malnourishment and hyper aggression. The 2019 call for evidence', revealed poor welfare amongst many primates kept as pets in England.

7.3 Existing welfare legislation does not fully address this issue. In 2020, the government consulted on how a licensing scheme would work in practice and confirmed it would ban the keeping of primates other than by persons holding a relevant licence. These measures were originally intended to be introduced via the Animal Welfare (Kept Animals) Bill (KAB), which was first introduced to Parliament on 8 June 2021. On 25 May 2023 the Government announced that, because of the risk of scope-creep that the Bill faced, it would be taking forward the KAB measures individually during the remainder of the Parliament. The Primates measures are now being delivered under the Animal Welfare Act (2006) following our June 2023 consultation on the Licensing of specialist private primate keepers in England, where 97% of respondents welcomed the standards being introduced.

7.4 This instrument is being laid to introduce high welfare standards for kept primates, akin to those provided by licensed zoos and will prohibit the keeping and breeding of primates without a relevant licence.

7.5 This instrument will improve the welfare of primates in England by requiring keepers of primates to be licensed by local authorities and for those licences ("specialist primate licences) to contain minimum welfare standards which can be monitored and enforced by local authorities. Existing and prospective keepers of primates will need a specialist primate licence to keep primates from 6th April 2026. The licensing regime seeks to prevent primates being kept in a domestic setting in poor welfare conditions. A keeper will need to apply for a specialist primate licence from the local authority in whose area the premises at which the primates are being kept or are to be kept. Licences will only be granted after a satisfactory inspection conducted by the

relevant local authority. Local authorities can inspect more frequently if welfare issues are identified. Inspections will assess record keeping, provision of emergency arrangements, care and maintenance, nutrition and feeding, physical health, environment, behaviour, handling and restraint, transport, and breeding.

7.6 The instrument makes it an offence for any primate holder to fail to comply with licence conditions.

7.7 The instrument will not apply to primates kept by a person holding a zoo licence under the Zoo Licencing Act 1981 or a Home Office scientific procedures licence under the Animals (Scientific Procedures) Act 1986, because separate standards already exist for this. However, it will apply to all primates which are currently being licensed under the Dangerous Wild Animals Act 1976 and/or the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 None.

10. Consultation outcome

10.1 In total, 4516 responses to the 2020 consultation on Primates as Pets in England were received. Over 98% of expressed support for the introduction of a new prohibition on keeping primates privately in England without a relevant licence.

10.2 Views on our most recent proposals for the introduction of a specialist licence for private primate keepers in England, through regulations made under the Animal Welfare Act (2006), were invited through a 4-week consultation running from 20 June to 18 July 2023.

10.3 The consultation generated 643 responses, including animal rescue organisations, veterinary professionals, representatives from primate rescue centres, zoo representative and umbrella organisations, representatives from local authorities, academics involved in primate research and primatology, a number of private primate keepers, and a large number of members of the public.

10.4 There was widespread support for the proposed measures. 97% of respondents welcomed the standards being introduced for welfare requirements including breeding, handling, vet care and environmental criteria.

10.5 A full summary of the responses to the public consultation, along with the Government's formal response, has been published on the Government website.

11. Guidance

11.1 This instrument will be enforced by local authorities in accordance with future published guidance. The Department intends to publish detailed guidance for local authorities by Spring 2024, to which local authorities will be required to have due regard. This guidance will help both keepers and those applying and enforcing the licensing regime to understand what is required. The Department will continue to

raise awareness of the new arrangements through ongoing extensive engagement with local authorities and other key stakeholder interests.

12. Impact

12.1 There is no significant impact on business, charities or voluntary bodies. There are between 1000 and 5000 primates being held as pets in England and the majority of these are held by private keepers.

12.2 There is no significant impact on the public sector. Local authorities will recoup licensing costs from private primate keepers.

12.3 A full Impact Assessment has not been prepared for this instrument because there is no significant impact on businesses.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, The Right Honourable Lord Benyon, Minister of State (Minister for Biosecurity, Marine and Rural Affairs) at the Department for Environment, Food and Rural Affairs has made the following statement: "Since the net annual direct costs of this instrument are not anticipated to exceed £5 million, a statutory review clause has not been included."

15. Contact

15.1 Amena Khatun at the Department for Environment, Food and Rural Affairs Telephone: 0207 895 5581 or email: Amena.Khatun@defra.gov.uk can be contacted with any queries regarding the instrument.

15.2 Pamela Thompson, Deputy Director for Animal Welfare, at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.

15.3 The Right Honourable Lord Benyon, Minister of State (Minister for Biosecurity, Marine and Rural Affairs) at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.