

ANIMAL WELFARE (LIVESTOCK EXPORTS) BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Animal Welfare (Livestock Exports) Bill as brought from the House of Commons on 16 January 2024 (HL Bill 39).

- These Explanatory Notes have been prepared by the Department for Environment, Food and Rural Affairs in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill.

Table of Contents

Subject	Page of these Notes
Overview of the Bill	2
Policy background	2
Legal background	3
Assimilated law on the welfare of animals in transport	3
Animal Health Act 1981	3
Commentary on provisions of the Bill	3
Clause 1: Prohibition of export of livestock for slaughter	3
Clause 2: Regulations about enforcement of section 1	3
Clause 3: Section 2: supplementary	4
Clause 4: Enforcement regulations: procedure etc	4
Clause 5: Connected repeals in relation to horses	4
Clause 6: Concurrent functions in Wales	4
Clause 7: Extent, commencement and short title	4
Financial implications of the Bill	5
Parliamentary approval for financial costs or for charges imposed	5
Compatibility with the European Convention on Human Rights	5
Statement under section 20 of the Environment Act 2021	5
Related documents	5
Territorial extent and application	6
Subject matter and legislative competence of devolved legislatures	7

Overview of the Bill

- 1 The Animal Welfare (Livestock Exports) Bill makes provision to prohibit the export of cattle, sheep, goats, pigs and equines for slaughter, including fattening for subsequent slaughter, beginning in or transiting through Great Britain to EU member states and other third countries.

Policy background

- 2 Public concern regarding live animal exports has a long history: there have been a number of campaigns by animal welfare organisations since the 1990s, aiming either to end live animal exports for slaughter or to limit how far an animal can be transported on welfare grounds. The topic was highlighted at the time of the EU referendum as a benefit of leaving the EU, as the EU free trade rules prevent member states from banning live exports to other EU countries. In 2017, the animal welfare organisation Compassion in World Farming launched a petition calling for a ban on live exports that attracted 100,752 signatures.¹ In September 2023, a further petition with 95,000 signatures was delivered to the Prime Minister.²
- 3 A ban on live exports for slaughter and fattening was referenced in the Government's Action Plan for Animal Welfare, published in May 2021, and provisions for a ban were previously included in the Animal Welfare (Kept Animals) Bill,³ introduced into Parliament in June 2021. In May 2023, the Government announced that the Bill would no longer be progressing. Subsequently, the decision was made to introduce a single-issue Bill to bring in the live exports ban.
- 4 Drawing on the 2019 expert opinion of the Farm Animal Welfare Committee⁴ on animal welfare in transport, the Department for Environment, Food and Rural Affairs (Defra), in partnership with the Welsh Government, published a consultation in December 2020 on the proposal to end the export of live animals for fattening and slaughter⁵ and on other improvements to animal welfare in transport. Defra received over 11,000 responses to the consultation, with 87% of respondents agreeing that livestock and horse export journeys for slaughter and fattening are unnecessary. Defra affirmed in the summary of responses⁶ that the Government would proceed with a ban on the export of livestock (cattle, sheep, goats and pigs) and horses from England, Wales and Scotland for slaughter and fattening. The Scottish Government also consulted on improvements to animal welfare in transport towards the end of 2020⁷, including restrictions on live exports. Although the consultation did not specifically ask about banning live exports, the summary of responses⁸ reports that "a large number of respondents also urge for live export for fattening and slaughter to be phased out."

¹ <https://petition.parliament.uk/archived/petitions/200205>

² <https://www.ciwf.org.uk/media/press-releases-statements/2023/09/dame-joanna-lumley-urges-uk-government-to-ban-live-exports>

³ <https://bills.parliament.uk/bills/2880>

⁴ https://consult.defra.gov.uk/transforming-farm-animal-health-and-welfare-team/improvements-to-animal-welfare-in-transport/supporting_documents/fawcopiniononthewelfareofanimalsduringtransport.pdf

⁵ <https://www.gov.uk/government/consultations/live-animal-exports-improvements-to-animal-welfare-in-transport>

⁶ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1011728/animal-welfare-in-transport-consultation-response.pdf

⁷ <https://www.gov.scot/publications/consultation-farm-animal-welfare-committees-opinion-welfare-animals-during-transport-scottish-government-response/>

⁸ <https://www.gov.scot/publications/farm-animal-welfare-committee-opinion-welfare-animals-during-transport-summary-report/>

Legal background

Assimilated law on the welfare of animals in transport

- 5 The welfare of animals in transport (including when they are exported) is principally governed by Council Regulation No 1/2005 on the protection of animals during transport and related operations. This is supplemented by domestic orders in England, Wales and Scotland. Council Regulation No 1/2005 is retained direct EU legislation in England, Wales and Scotland.
- 6 Retained EU law: The European Union (Withdrawal) Act 2018 made provision to ensure that EU law would continue to apply in domestic law at the end of the post-Brexit transition period (the end of 2020). These EU laws that were preserved on the UK statute books were known as retained EU law (REUL). Retained EU legislation will become known as assimilated legislation after the end of 2023 under the Retained EU Law (Revocation and Reform) Act 2023.

Animal Health Act 1981

- 7 Sections 40-49 of the Animal Health Act 1981 place certain restrictions on the export of horses and ponies to protect their welfare and prevent the export of 'low-value' horses and ponies. These requirements have largely been superseded by Council Regulation No 1/2005 on the protection of animals during transport and related operations.

Commentary on provisions of the Bill

Clause 1: Prohibition of export of livestock for slaughter

- 8 Subsection (1) of this clause prohibits the export of relevant livestock from Great Britain for slaughter and subsection (2) makes it an offence to contravene this prohibition.
- 9 Subsection (3) describes "exports" for the purpose of determining whether a person has contravened the prohibition in subsection (1). Subsection (4) defines "relevant livestock" for the purpose of this clause, and subsection (5) defines "for slaughter", which includes relevant animals being exported for the purpose of being slaughtered or fattened for slaughter.
- 10 Subsection (6) provides that a person who commits an offence under this clause in England and Wales is liable on summary conviction to imprisonment for a term not exceeding the maximum for summary offences, to a fine or both. In Scotland, a person who commits an offence under this clause is liable on summary conviction to imprisonment for up to 6 months, to a fine not exceeding level five on the standard scale or both. Subsection (7) explains that the maximum term for summary offences in England and Wales is 6 months until section 281(5) of the Criminal Justice Act 2003 comes into force, from which point the maximum imprisonment term for England and Wales will be 51 weeks.

Clause 2: Regulations about enforcement of section 1

- 11 Subsection (1) of this clause empowers the appropriate national authority (the Secretary of State, Scottish Ministers or Welsh Ministers) to make regulations to provide for the enforcement of the prohibition on the export of live animals for slaughter. Subsections (2) and (3) provide non-exhaustive lists of what these regulations may cover, which include powers of entry, seizure or detention, the creation of criminal offences and the imposition of civil sanctions.

- 12 Subsection (4) restricts the enforcement regulations conferring a power of entry in relation to a private dwelling without the consent of the occupier or with the use of reasonable force unless the power is exercised under the authority of a warrant.
- 13 Subsection (5) clarifies the scope of the power in subsection (4) of clause 3 to make provision for the imposition of civil sanctions in regulations relating to the enforcement of clause 1.
- 14 Subsection (6) clarifies the scope of criminal offences that can be created in relation to regulations made under subsection (1).

Clause 3: Section 2: supplementary

- 15 This clause defines “appropriate national authority”, “civil sanction” and “enactment” for the purposes of clause 2.
- 16 Subsection (3) provides that the Secretary of State may only make enforcement regulations containing provisions that could be made by Scottish or Welsh Ministers with their consent.

Clause 4: Enforcement regulations: procedure etc

- 17 This clause provides that enforcement regulations made under clause 2 must be made by statutory instrument under the affirmative procedure (or equivalent in the Scottish Parliament and Senedd Cymru) and may include consequential, incidental, transitional or saving provisions and may include different provisions for different purposes and areas.

Clause 5: Connected repeals in relation to horses

- 18 This clause repeals sections 40 to 49 of the Animal Health Act 1981 (provisions relating to the export of horses) and also makes other amendments to that Act that are consequential to their repeal.

Clause 6: Concurrent functions in Wales

- 19 Clause 2 of the Bill creates powers that are exercisable concurrently by the Secretary of State and the Welsh Ministers. Restrictions in Schedule 7B to the Government of Wales Act 2006 prevent Senedd Cymru from removing a Minister of the Crown function that is exercised concurrently or jointly with the Welsh Ministers without the consent of the UK Government. This clause disapplies the relevant restrictions in respect of the concurrent powers in this Bill by adding the Bill to the lists of enactments in paragraphs 9(8)(b) and 11(6)(b) of Schedule 7B. This will allow Senedd Cymru to alter the concurrent arrangements relating to devolved matters without needing the UK Government’s consent.

Clause 7: Extent, commencement and short title

- 20 Subsection (1) sets out the territorial extent of provisions in the Bill.
- 21 Subsection (2) provides that clause 1 (prohibition of export of livestock for slaughter) and clause 5 (connected repeals in relation to horses) come into force in accordance with commencement regulations made by the appropriate national authority.
- 22 Subsection (3) provides that clauses 2, 3, 4, 6 and 7 come into force at Royal Assent.
- 23 Subsections (4) to (8) provides powers for the Secretary of State, Scottish Ministers and Welsh Ministers to make transitional or saving provisions in regulations that commence provisions in the Bill.
- 24 Subsection (9) provides that the short title of the Bill will be the Animal Welfare (Livestock Exports) Act 2024 once it becomes an Act.

Financial implications of the Bill

- 25 Provisions in the Bill will create some minor charges on the public revenue, as noted in the accompanying impact assessment⁹, which also covers the impacts on business. Estimated costs on the public revenue include the administrative and enforcement costs for the Animal and Plant Health Agency as well as a minor impact on the criminal justice system.

Parliamentary approval for financial costs or for charges imposed

- 26 The Bill will not require a money resolution or a Ways and Means resolution.

Compatibility with the European Convention on Human Rights

- 27 The Government considers that the Bill is compatible with the European Convention on Human Rights (“ECHR”). Accordingly, Lord Douglas-Miller has made a statement under clause 19(1)(a) of the Human Rights Act 1998 to this effect.
- 28 The Government’s ECHR analysis can be found in the memorandum to the Joint Committee on Human Rights.

Statement under section 20 of the Environment Act 2021

- 29 Lord Douglas-Miller is of the view that the Bill as brought from the House of Commons does not contain provision which, if enacted, would be environmental law for the purposes of section 20 of the Environment Act 2021. Accordingly, no statement under that section has been made.

Related documents

- 30 The following documents are relevant to the Bill and can be read at the stated locations:
- Defra Call for Evidence on controlling live exports and improving animal welfare during transport: <https://consult.defra.gov.uk/animal-health-and-welfare/live-exports-and-improving-welfare-in-transport/>
 - Farm Animal Welfare Committee, Opinion on the Welfare of Animals during Transport (with the systematic review, conducted by Scotland’s Rural University College and University of Edinburgh, appended): https://consult.defra.gov.uk/transforming-farm-animal-health-and-welfare-team/improvements-to-animal-welfare-in-transport/supporting_documents/fawcopiniononthewelfareofanimalsduringtransport.pdf

⁹ <https://publications.parliament.uk/pa/bills/cbill/58-02/0013/LiveAnimalExportFinalStageImpactAssessment.pdf>

- Action Plan for Animal Welfare: <https://www.gov.uk/government/publications/action-plan-for-animal-welfare>
- Defra and Welsh Government consultation on improvements to animal welfare in transport: <https://consult.defra.gov.uk/transforming-farm-animal-health-and-welfare-team/improvements-to-animal-welfare-in-transport/>
- Summary of Responses and Government Response to the Defra and Welsh Government consultation on improvements to animal welfare in transport: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1011728/animal-welfare-in-transport-consultation-response.pdf
- Scottish Government consultation on the welfare of animals during transport: <https://www.gov.scot/publications/consultation-farm-animal-welfare-committees-opinion-welfare-animals-during-transport-scottish-government-response/pages/1/>
- Summary of Responses to the Scottish Government consultation on the welfare of animals during transport: <https://www.gov.scot/publications/farm-animal-welfare-committee-opinion-welfare-animals-during-transport-summary-report/>
- Impact Assessment of the ban on live exports: <https://publications.parliament.uk/pa/bills/cbill/58-02/0013/LiveAnimalExportFinalStageImpactAssessment.pdf>

Territorial extent and application

- 31 Clause 7(1) sets out the territorial extent of the Bill, which describes the jurisdictions in which the Bill forms part of the law. The Animal Welfare (Livestock Exports) Bill extends and applies to Great Britain, except for clause 5(b) and clause 6.
- 32 Clause 5(b) repeals a specific part of the Animal Health Act (1981) that extends and applies to Scotland only. Accordingly, clause 5(b) extends and applies to Scotland only.
- 33 The amendments made by clause 6 would add the Bill to Schedule 7B of the Government of Wales Act 2006, and thereby exempt it from restrictions on the legislative competence of Senedd Cymru. These amendments have the same extent as the enactments to which they relate.
- 34 The table below summarises the position regarding territorial extent and application in the United Kingdom.

England	Wales		Scotland		Northern Ireland	
Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Legislative Consent Motion process engaged?	Extends and applies to Scotland?	Legislative Consent Motion process engaged?	Extends and applies to Northern Ireland?	Legislative Consent Motion process engaged?
Yes	Yes	Yes	Yes	Yes	No	N/a

Subject matter and legislative competence of devolved legislatures

- 35 The Bill relates to animal welfare, which is a devolved matter. Apart from clause 6, the Bill is within the legislative competence of the Scottish Parliament. Apart from clause 6 and clause 5(b), the Bill is within the legislative competence of the Senedd Cymru.
- 36 There is a convention that Westminster will not normally legislate with regard to matters that are within the legislative competence of the Scottish Parliament, Senedd Cymru or the Northern Ireland Assembly without the consent of the legislature concerned.
- 37 For the provisions of the Bill that fall within the legislative competence of the Scottish Parliament and Senedd Cymru, the legislative consent procedure would be appropriate. A legislative consent motion is the means by which a devolved legislature indicates that it is content for the UK Parliament to pass a law on a devolved matter.

ANIMAL WELFARE (LIVESTOCK EXPORTS) BILL

EXPLANATORY NOTES

These Explanatory Notes relate to the Animal Welfare (Livestock Exports) Bill as brought from the House of Commons on 16 January 2024 (HL Bill 39).

Ordered by the House of Lords to be printed, 16 January 2024

© Parliamentary copyright 2024

This publication may be reproduced under the terms of the Open Parliament Licence which is published at www.parliament.uk/site-information/copyright

PUBLISHED BY AUTHORITY OF THE HOUSE OF LORDS