

ANIMAL WELFARE (LIVESTOCK EXPORTS) BILL

Memorandum from the Department for Environment, Food and Rural Affairs to the Delegated Powers and Regulatory Reform Committee

A. INTRODUCTION

1. This memorandum has been prepared for the Delegated Powers and Regulatory Reform Committee to assist with its scrutiny of the Animal Welfare (Livestock Exports) Bill (“the Bill”). The Bill was introduced in the House of Commons on 4th December 2023 and moved to the House of Lords on 16th January 2024. This memorandum identifies the provisions of the Bill that confer powers to make delegated legislation. It explains in each case why the power has been taken and explains the nature of, and the reason for, the procedure selected.

B. PURPOSE AND EFFECT OF THE BILL

2. The Bill will protect and improve the welfare of farmed animals and equines. It makes provision to prohibit the export of cattle, sheep, goats, pigs and equines for slaughter, including fattening for subsequent slaughter. The Bill also provides a power to enable the Secretary of State and the Scottish and Welsh Ministers to make regulations in connection with the enforcement of the prohibition.
3. The Bill will apply to exports from Great Britain to third countries, that is countries outside the British Islands. It will apply also to journeys transiting through Great Britain to a destination outside the British Islands e.g. to live export journeys for slaughter or fattening that begin in Northern Ireland or EU Member States such as the Republic of Ireland, transit through Great Britain and are destined for a country or territory outside the British Islands.
4. The policy aim is that animals should only be transported if it is necessary and that the most welfare considerate route should be chosen. Journey durations should be minimised where possible to reduce the risk of welfare issues arising during journeys. From a welfare perspective, the government views export journeys for slaughter and fattening to be unnecessary or unnecessarily stressful because the animals could be slaughtered or fattened domestically, where journey times are typically shorter and less stressful than an equivalent export journey.

C. DELEGATED POWERS

Clause 2: Regulations about enforcement of section 1

Power conferred on: Secretary of State, the Scottish Ministers and the Welsh Ministers

Power exercised by: regulations

Parliamentary Procedure: affirmative procedure (see clause 4)

Context and Purpose

5. The Bill includes a delegated power to provide for the enforcement of the prohibition on the export of “relevant livestock” for slaughter in clause 1. The power is conferred on the “appropriate national authority”, which is defined in clause 3 and includes the Secretary of State, Scottish Ministers and Welsh Ministers. The power will enable the appropriate national authority to confer functions on enforcement authorities (including for the purposes of preventing contraventions of the prohibition in clause 1), require the provision of records and other information to an enforcement authority, confer powers of entry and associated powers on an enforcement authority, create criminal offences (for a failure to comply with the regulations or for obstructing an enforcement authority) and create civil sanctions (fixed monetary penalties, discretionary requirements, stop notices and enforcement undertakings) for contravention of clause 1(1) or a failure to comply with regulations.
6. The power also enables the appropriate national authority to apply provisions corresponding to the enforcement provisions in or under the Animal Health Act 1981, or in regulations made under section 12 of the Animal Welfare Act 2006 or section 26 of the Animal Health and Welfare (Scotland) Act 2006.

Justification for taking the power

7. The Department believes that this power is required to take account of the complex framework contained in assimilated law on the welfare of animals in transport and other animal welfare legislation. Enforcement of existing rules on welfare in transport is contained in an intricate legislative regime comprising:
 - [Council Regulation \(EC\) No 1/2005](#) on the protection of animals during transport and related operations (which has been amended four times in the past two years)
 - [Council Regulation \(EC\) No 1255/97](#) concerning Community criteria for staging points and amending the route plan referred to in the Annex to Directive 91/628/EEC
 - [Regulation \(EU\) 2017/625](#) on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products
 - the [Welfare of Animals \(Transport\) \(England\) Order 2006](#) (S.I. 2006/3260), the [Welfare of Animals \(Transport\) \(Wales\) Order 2007](#) (S.I. 2007/1047 (W.105)) and the [Welfare of Animals \(Transport\) \(Scotland\) Regulations 2006](#) (S.S.I. 2006/606)
8. Enforcement of the live exports ban needs to build on and be consistent with this complex set of provisions. The power will enable amendments to be made to provisions in the assimilated legislation relating to animal welfare in transport to facilitate the enforcement of the prohibition. These amendments are likely to be detailed and technical in nature and the Department therefore considers that they are better suited to regulations than primary legislation.
9. The power will enable the Department to work closely with the Scottish and Welsh governments to provide enforcement authorities with an effective and proportionate suite of enforcement powers across England, Scotland and Wales, and to set those powers out in a single GB-wide instrument, if appropriate. The

power will provide the appropriate national authorities with sufficient flexibility to ensure that a simplified and consistent approach can be taken to the enforcement of clause 1(1) and other requirements relating to animal welfare in transport now and in the future.

10. Appropriate safeguards are included in relation to the powers of entry that may be conferred on enforcement authorities and the criminal offences that may be created.

Justification for the procedure

11. This Department believes that the affirmative procedure is appropriate as the regulations may create criminal offences, make provision for civil sanctions and confer powers of entry. The Department considers that the increased parliamentary scrutiny of the affirmative procedure is appropriate for these kinds of provisions.

Clause 7: Extent, commencement and short title

Power conferred on: Secretary of State, the Scottish Ministers and the Welsh Ministers

Power exercised by: regulations

Parliamentary Procedure: no procedure

12. Consistent with common practice, commencement regulations under this clause are not subject to any parliamentary procedure. Parliament will have approved the principle of the provisions in the Bill by enacting them; commencement by regulation enables the provisions to be brought into force at the appropriate time with or without transitional or saving provisions.

**Department for Environment, Food and Rural Affairs
January 2024**