

Legislative Consent Memorandum

Animal Welfare (Livestock Exports) Bill

1. This legislative consent memorandum is laid under Standing Order (“SO”) 29.2. SO29 prescribes that a legislative consent memorandum must be laid, and a legislative consent motion may be tabled, before Senedd Cymru if a UK Parliamentary Bill makes provision in relation to Wales for any purpose within, or which modifies the legislative competence of the Senedd.
2. The Animal Welfare (Livestock Exports) Bill (“the Bill”) was introduced by Mark Spencer MP in the House of Commons and received its First Reading on 4 December 2023. The second reading of the Bill is timetabled for 18 December 2023. The Bill can be found at:

[Animal Welfare \(Livestock Exports\) Bill - Parliamentary Bills - UK Parliament](#)

Policy Objectives

3. The stated policy objective of the Bill is to prohibit the export of cattle, sheep, goats, pigs, and equines (“relevant livestock”) for slaughter, including fattening for subsequent slaughter. The proposed ban applies only to the export of, or organisation for export of, relevant livestock beginning in, or transiting through Great Britain to outside the British Islands (this will capture all European Union (EU) Member States and other third countries).

Summary of the Bill

4. The Bill is sponsored by the Department of Environment, Food and Rural Affairs (Defra).
5. The Bill makes provision in the following areas:
 - Clause 1: Prohibition of export of livestock for slaughter
 - Clause 2: Regulations about enforcement of section 1
 - Clause 3: Section 2: supplementary
 - Clause 4: Enforcement regulations: procedure etc
 - Clause 5: Connected repeals in relation to horses
 - Clause 6: Concurrent functions in Wales
 - Clause 7: Extent, commencement and short title
6. As set out above, the Bill will prohibit the export of relevant livestock for slaughter, including fattening for subsequent slaughter, beginning in, or transiting through Great Britain to EU Member States and other third countries.
7. The ban will not apply to the movement of relevant livestock within GB. Neither will it apply to exports for other purposes, for example exports for breeding, competition, racing and scientific purposes. Only relevant livestock is caught in

the ban provided for by the Bill. For clarity purposes this means that poultry is not included in the ban. This is because the exportation of poultry is not currently considered to raise any significant welfare concerns.

8. The Bill 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 relevant livestock for slaughter (“Enforcement Regulations”).
9. This regulation making power is exercisable by the Welsh Ministers in relation to Wales in areas of legislative competence. Additionally, this Bill creates a new concurrent plus power providing that the Secretary of State may make Enforcement Regulations in areas of devolved competence only with the consent of the Welsh Ministers.
10. The Bill repeals sections 40 to 49 of the Animal Health Act 1981 (provisions relating to the export of horses) and makes other amendments to that Act that are consequential to their repeal. This provision has to be brought into force by the Welsh Ministers under their regulation making powers for commencement. The commencement regulation making power lies with the Welsh Ministers alone.

Provisions in the Bill for which consent is required

11. The Bill sets out a new legal framework prohibiting the live export of relevant livestock for the purpose of slaughter or fattening for slaughter and as such all clauses within it are interrelated; matters within the legislative competence of the Senedd.
12. Consent is therefore required for the entire Bill, save for provisions which apply only in relation to Scotland or England. Those provisions which do not require a LCM are clauses 1(6)(b), 2(4)(b), 4(5), 5(b), 7(1)(a), 7(2)(a) and (b), 7(4) and 7(5).

Clause 1: Prohibition of export of livestock for slaughter

13. Subsection (1) prohibits the export of relevant livestock from Great Britain for slaughter and subsection (2) makes it an offence to contravene this prohibition.
14. Subsection (3) describes “exports” for the purpose of determining whether a person has contravened the prohibition in subsection (1). The effect of this provision is that under this Bill exporting, attempting to export, organizing or attempting to organize, live animal exports of relevant livestock for the purposes of slaughter or fattening for slaughter will remain legal from Northern Ireland to Great Britain. Where the same is routed through Great Britain to anywhere outside the British Islands (the United Kingdom, Channel Islands or the Isle of Man)) this would be in contravention of the ban provided for in this Bill.

15. Subsection (4) defines relevant livestock as:
- (a) cattle and other bovine animals,
 - (b) horses and other equine animals,
 - (c) sheep
 - (d) goats, or
 - (e) pigs or wild boar.
16. Subsection (5) provides that an offence of exporting relevant livestock is committed where the person exporting relevant livestock knows, or could be reasonably expected to know, that it is being exported for the purpose of being slaughtered or for the purpose of being fattened for slaughter.
17. Subsection (6)(a) 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.
18. 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

19. Subsection (1) empowers the appropriate national authority to make regulations to provide for the enforcement of the prohibition on the export of live animals for slaughter.
20. An 'appropriate national authority' is defined in clause 3(2).
21. Subsection (2) provides that an Appropriate National Authority may make any provisions that it thinks appropriate for, or in connection with, preventing, detecting, investigating or punishing contraventions of the ban provided for in the Bill.
22. Subsection (3) provides a non-exhaustive list of what these regulations may provide for, which include powers of entry, seizure or detention, the creation of criminal offences and the imposition of civil sanctions.
23. Subsection (4)(a) 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 issued by a justice of the peace.
24. 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.
25. 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

26. This clause applies for the purposes of clause 2. Subsection (2) of this clause defines “Appropriate national authority”, subsection (4) defines “civil sanction” and subsection (5) defines “enactment”.
27. Subsection (2)(c) provides that an “Appropriate national authority” includes the Welsh Ministers so far as provisions made by regulations would be within the legislative competence of the Senedd.
28. Subsection (3)(b) provides that the Secretary of State may only make enforcement regulations containing provisions that could be made by the Welsh Ministers if the Welsh Ministers consent to them doing so. This subsection creates a new concurrent plus power, there is a ‘carve out’ in clause 6 (see paragraphs 32 – 34 below).

Clause 4: Enforcement regulations: procedure etc

29. This clause provides that enforcement regulations made under clause 2 must be made by statutory instrument under the draft affirmative procedure and may include consequential, incidental, transitional or saving provisions and may include different provisions for different purposes and areas.
30. Consent is not needed for subsection (5) as this applies only in relation to Scotland.

Clause 5: Connected repeals in relation to horses

31. 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 section 95(5)(b) of that Act that are consequential to the repeal of sections 40-49.

Clause 6: Concurrent functions in Wales

32. This Bill creates a concurrent plus function whereby the Secretary of State may make enforcement regulations in relation areas of Senedd competence only with the consent of the Welsh Ministers.
33. Restrictions in Schedule 7B to the Government of Wales Act 2006 (“GoWA”) 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.
34. Clause 6 disapplies the relevant restrictions in respect of the concurrent plus powers in this Bill by adding it, once it receives Royal Assent, to the list of enactments in paragraphs 9(8)(b) and 11(6)(b) of Schedule 7B. This will allow the Senedd to amend or remove the concurrent plus arrangement provided for in this Bill without the consent of the UK Government.

Clause 7: Extent, commencement and short title

35. Subsection (1) sets out the territorial extent of provisions in the Bill. Subsection (1)(b) provides that amendments and repeals of clause 6 has the same extent as the provisions in GoWA to which they relate.
36. Subsection (2)(c) 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 Welsh Ministers in relation to Wales.
37. Subsection (3) provides that clauses 2 (prohibition of export of livestock for slaughter), 3 (section 2: supplementary), 4 (enforcement regulations: procedure etc), and 6 (concurrent functions in Wales) come into force on Royal Assent.
38. Subsections (6) provides a power for the Welsh Ministers to make transitional or saving provisions in regulations that commence clauses 1 (prohibitions of export of livestock for slaughter) and 5 (connected repeals in relation to horses) of the Bill.
39. Subsection (7) provides that regulations made under this clause may make different provision for different purposes and subsection (8) provides that the power of the Welsh Ministers to make regulations under this clause is exercisable by statutory instrument.
40. Subsection (9) provides that the short title of the Bill will be the Animal Welfare (Livestock Exports) Act 2024 once it becomes an Act.

UK Government view on the need for consent

41. The UK Government's view is that all clauses require the consent of the Senedd with the exception of clause 5(b) (enforcement regulations: procedure etc) and clause 6 (concurrent functions in Wales).
42. The Rt. Hon. Mark Spencer MP, Minister of State for Food, Farming and Fisheries, in correspondence to the Welsh Government has stated that all Bill provisions (with the exception of clauses 5(b) and clause 6) fall within the exceptions in paragraph 71 of Schedule 7A to GoWA. This is also reflected in paragraph 12 of the Explanatory Notes to the Bill.
43. Noting these exceptions, it is the UK Government's view that the remainder of the Bill provisions fall within the legislative competence of the Senedd and therefore engage the LCM process.

Reasons for making these provisions for Wales in the Animal Welfare (Livestock Exports) Bill

44. Animal welfare is a priority of the Welsh Government. Animals should only be transported when necessary and journey durations should be minimised. The export of livestock and equines for slaughter or fattening is unnecessary because they could be slaughtered or fattened domestically.
45. The Welsh Government and UK Government consulted jointly on [improvements to animal welfare in transport](#). The consultation sought views on proposals to improve the conditions of animal transport more generally, and on the proposal to end the export of livestock and equines from England and Wales for slaughter and fattening (on which there was no exception). The Scottish Government consulted separately on similar proposals. The three Governments have undertaken to work jointly to deliver a ban on live export. A consistent and coherent approach to a ban and enforcement is necessary across Great Britain if a ban is to be effective.
46. The Welsh Government considers it would be appropriate for this UK Bill to make provision in relation to Wales in line with our principles on UK Bills. The Bill offers a timely opportunity to deliver a discrete policy objective shared across Great Britain. This includes the potential need to ensure enforcement provision across Great Britain, including through concurrent plus powers which suitably recognise devolution principles. The Welsh Government is supportive of the Bill as drafted.

Financial Implications

47. Provisions in the Bill will create some minor charges on the public revenue, as noted in the [impact assessment](#), which also includes 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.

Conclusion

48. In my view it is appropriate for all relevant provisions to be made in this UK Bill. Therefore, I recommend that the Senedd supports the proposals and gives its consent.

Lesley Griffiths MS
Minister for Rural Affairs and North Wales, and Trefnydd
19 December 2023