

Rural Affairs and Islands Committee

3rd Meeting, 2024 (Session 6), Wednesday, 31 January

Legislative consent memorandum – Animal Welfare (Livestock Exports) Bill

Background

1. This paper supports the Committee's consideration of [the legislative consent memorandum \(LCM\) for the Animal Welfare \(Livestock Exports\) Bill](#). The LCM was lodged by the Scottish Government on 19 December 2023. Information about the process for the consideration of LCMs is set out in **Annexe A**.
2. The [Animal Welfare \(Livestock Exports\) Bill](#) was introduced by the UK Government in the House of Commons on 4 December 2023. The Bill is intended to prohibit the export of certain live animals from Great Britain for slaughter. The text of the Bill, together with information about its progress through the UK Parliament, can be found on the UK Parliament webpage.
3. In November 2021, the Rural Affairs, Islands and Natural Environment Committee [agreed to recommend legislative consent for similar provisions](#) that formed part of the then [Animal Welfare \(Kept Animals\) Bill](#). The UK Government withdrew the Animal Welfare (Kept Animals) Bill on 8 June 2023.

The Animal Welfare (Livestock Exports) Bill – provisions which relate to Scotland

4. The Bill consists of seven clauses. Clauses 1 to 5 and 7 make provision applying to Scotland and require the consent of the Scottish Parliament. Clause 6 does not apply to Scotland and does not require the consent of the Scottish Parliament.
5. Clause 1 would prohibit the export of certain live animals, termed "relevant livestock", from GB for the purpose of being slaughtered or being fattened for slaughter. The Bill defines the scope of "relevant livestock" as being "cattle and other bovine animals, horses and other equine animals, sheep, goats and pigs and wild boar." This clause would make contravention of the prohibition an offence for which, in Scotland, conviction would be liable for a term of imprisonment, a fine, or both.

6. Clause 2 would empower the Scottish Ministers or the Secretary of State acting with the consent of the Scottish Ministers (acting as the “appropriate national authority” under the Bill) to make regulations concerning enforcement of the prohibition on the export of relevant livestock for slaughter. Clause 3 sets out the definition of the “appropriate national authority”, while clause 4 provides that any regulations made under powers in this Bill would be subject to the affirmative procedure (or equivalent in the UK Parliament where applicable).
7. Clause 5 would repeal the provisions within the Animal Health Act (1981) which relate to the export of horses and makes further amendments to that Act which are consequential to that repeal.
8. Finally, clause 7 would make general provision about consequential provision, commencement, and extent.
9. The LCM states these clauses are relevant as they fall under the legislative competence of the Scottish Parliament with regard to the protection of animal welfare and to the powers of Scottish Ministers to make subordinate legislation.

Consultation

10. The LCM refers to the [Scottish Government’s public consultation](#) on the Farm Animal Welfare Committee’s recommendations regarding the welfare of animals during transport. According to the LCM, further detailed discussions on developing improved transport legislation are expected to take place with relevant industry sectors and other GB administrations.

Implications for alignment with EU law

11. The LCM states that the Cabinet Secretary for Constitution, Europe and External Affairs had been consulted previously in relation to previous LCM proposals which had raised issues of alignment with EU law. In the case of this Bill, however, the LCM states its provisions “do not diverge from the requirements of EU Regulations as the proposed changes are consistent with the expected direction to be taken by the EU.”

Financial implications

12. According to the LCM, the provisions would have “minimal financial implications” for the Scottish Government. The prohibition on the export of relevant livestock is expected to have “minimal impact in practice” as no animals have been exported from Scotland to countries outside the UK for slaughter or fattening since 2020.

Reasons for seeking a legislative consent motion

13. The Scottish Government is recommending the Parliament agree to the legislative consent motion. The LCM states that the Bill “addresses areas of

significant concern for animal welfare where consistent GB legislation is desirable to aid enforcement” and that the Scottish Government had “committed to work with other administrations to seek to end the unnecessary long distance transport of animals for fattening or slaughter outside the UK”.

14. The LCM states that the Scottish Ministers consider the UK Government’s introduction of primary legislation that applies consistently and simultaneously across GB to be “the most efficient way to make these changes” given the freedom of movement of livestock within GB. This approach is expected to aid enforcement and avoid the potential displacement of trade where different rules to be in place at different points of entry into GB.

Consideration by the Delegated Powers and Law Reform Committee

15. The role of the Delegated Powers and Law Reform Committee (DPLR Committee) in relation to an LCM is to consider and report on the provisions within the UK Bill that give Scottish Ministers the power to make subordinate legislation.
16. The DPLR Committee is expected to consider this LCM at its meeting on 30 January 2024. The Convener will update members on the DPLR Committee’s conclusions and any recommendations at the RAI Committee’s meeting.

For decision

17. The Committee is invited to—
 - take evidence from the Minister for Energy and the Environment and Scottish Government officials on the LCM (agenda item 3); and
 - agree how it wishes to report on the LCM (agenda item 4).

**Rural Affairs and Islands Committee clerks
January 2024**

What is a legislative consent memorandum?

1. The UK Parliament does not normally legislate on matters devolved to the Scottish Parliament without its consent (previously referred to as the Sewel Convention). Where it does seek to legislate in devolved competence, the Scottish Government is required under Standing Orders to lodge a legislative consent memorandum which explains how the Bill will affect Scotland and how, for example, the Bill may—
 - change the law on a “devolved matter” (an area of policy which the UK Parliament has devolved to the Scottish Parliament); or
 - alter the “legislative competence” of the Scottish Parliament (its powers to make laws) or the “executive competence” of Scottish Ministers (their powers to govern).
2. Chapter 9B of the Parliament’s Standing Orders sets out the rules and procedures for seeking legislative consent.
3. The Animal Welfare (Livestock Exports) Bill falls under Rule 9B.1.1 of the Standing Orders, as it will impact on areas devolved to the Scottish Parliament and on the executive competence of the Scottish Ministers (as explained in more detail above).

Does the Scottish Parliament have to give legislative consent?

4. It is up to the Scottish Ministers to decide whether to recommend the Scottish Parliament consent to the UK Parliament legislating on matters that fall within the legislative competence of the Scottish Parliament.
5. Where the Scottish Government recommends that legislative consent be given, a motion, known as a legislative consent motion, will be taken in the Chamber.
6. If, however, the Scottish Government does not recommend consent be given, a motion is not laid, although a debate on the LCM may be scheduled in the Chamber.
7. In relation to the Animal Welfare (Livestock Exports) Bill, the Scottish Government intends to lodge the following draft motion —

“That the Parliament agrees that the relevant provisions of the Animal Welfare (Livestock Exports) Bill, introduced in the House of Commons on 4 December 2023, relating to animal welfare, so far as these matters fall within the legislative competence of the Scottish Parliament and alter the executive competence of Scottish Ministers, should be considered by the UK Parliament.”

What is the role of committees when scrutinising an LCM?

8. Like other legislation that passes through the Parliament, an LCM is considered by both the Delegated Powers and Legislative Reform (DPLR) Committee and a lead committee.
9. It is the role of the lead committee to consider the LCM and report its views to the Scottish Parliament. The report usually includes a recommendation the Parliament should agree, or not, with the motion but it does not need to if the Committee does not come to a view.
10. As part of its consideration, it is usual to take evidence from the responsible Scottish Minister for the LCM, and in the case of this Bill, the Committee will hear from Gillian Martin, Minister for Energy and the Environment.
11. For any views expressed by the Scottish Parliament to be considered during the passage of the Bill in the UK Parliament, the lead committee must conclude its considerations before the last amending stage (report stage in the second house). It is best practice, however, for the lead committee to report ahead of the last amending stage in the first house, where possible.
12. The Animal Welfare (Livestock Exports) Bill is currently at second reading stage in the House of Lords, so this Committee should report before the last amending stage in the first house.