

Departmental Disclosure Statement

Animal Welfare Amendment Bill

The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by the Ministry for Primary Industries.

The Ministry for Primary Industries certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

1 September 2021

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Part One: General Policy Statement

The Bill amends the Animal Welfare Act 1999 (the Act) to ban the export of livestock (cattle, deer, sheep and goats) by sea.

On 14 April 2021, Cabinet announced its decision to ban the export of livestock by sea, with a transition period of up to 24 months. Cabinet then directed MPI to report back with advice implementing this decision with either a conditional or total ban made through regulations under the Act, or through changes made to primary legislation. Cabinet also invited the Minister of Agriculture to report back on the length of the transition period.

MPI advised that amending the primary legislation was its preferred approach to implement the ban as this approach:

1. has a low administrative and regulatory burden. No decisions are required by the Director-General or their delegate as would be necessary under a conditional ban using regulations; and
2. provides clarity to stakeholders and the New Zealand public about the intent of Cabinet's decision to ban the export of livestock by sea.

A transition period of up to 24 months was agreed to by Cabinet [CAB-21-MIN-0091]. MPI consulted with exporters and those involved in the industry on what is required to wind back the trade.

Based on information provided by industry and farmers on existing contractual arrangements, animal selection and breeding decisions, Cabinet agreed to ban all livestock exports by sea from 30 April 2023. This is approximately 24 months from the date the Government announced its decision to ban the export of livestock by sea.

Information provided to MPI by farmers and exporters indicates that an end date of 30 April 2023 would allow the majority of calves from animals that have already been mated to be exported. The certainty of the exact date of the ban taking affect allows those involved in the export industry, including farmers, to plan and adjust their business models to account for the removal of the trade.

Part Two: Background Material and Policy Information

Published reviews or evaluations

2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?	YES
<p>Livestock Export Review: MPI Discussion Paper 2019/10, Ministry for Primary Industries, November 2019. Available on the Ministry for Primary Industries website at: https://www.mpi.govt.nz/dmsdocument/38036/direct</p> <p>Livestock Export Review: Regulatory Impact Assessment, Ministry for Primary Industries, 10 March 2021. Available on The MPI website at: https://www.mpi.govt.nz/dmsdocument/46549-Livestock-export-review-Regulatory-Impact-Statement</p> <p>Livestock Export Review: Summary of submissions, Ministry for Primary Industries, March 2020. Available on the Ministry for Primary Industries website at: https://www.mpi.govt.nz/dmsdocument/44992-Summary-of-submissions</p>	

Relevant international treaties

2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?	NO

Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	YES
<p>Livestock Export Review: Regulatory Impact Analysis, Ministry for Primary Industries, 5 July 2021. Accessible from the Ministry for Primary Industries website at: https://www.mpi.govt.nz/dmsdocument/46549-Livestock-export-review-Regulatory-Impact-Statement</p> <p>This document informed the changes to amend the Animal Welfare Act 1999. Some content has been withheld to protect information under S 9(2)(g)(i) and S 6(a) of the OIA.</p>	

2.3.1. If so, did the RIA Team in the Treasury provide an independent opinion on the quality of any of these regulatory impact statements?	NO
<p>The MPI Regulatory Impact Analysis Panel (RIAP) has reviewed the Regulatory Impact Statement (RIS) "Livestock Export Review" produced by the MPI. The review team considers that the RIS partially meets the quality assurance criteria.</p>	
2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?	NO

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Extent of impact analysis available

2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?	NO
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2.5. For the policy to be given effect by this Bill, is there analysis available on:	
(a) the size of the potential costs and benefits?	YES
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	YES

<p>An analysis of the policy intent of the Bill determined that rural communities as well as exporters and related business would suffer economic losses:</p> <ul style="list-style-type: none"> • Rural communities where livestock exports are a source of income would suffer economic losses. This would likely have flow on effects to wider primary industry businesses related to the trade, e.g. veterinary services, transport companies, stock handlers etc. • Exporters and related business would suffer great economic losses that would likely result in businesses ceasing to operate. <p>Section B of the Regulatory Impact Assessment linked below, provides an analysis on costs and benefits of this Bill. It specifies the size of the potential costs and benefits as well as those who may suffer loss of income or wealth.</p> <p>In consideration of the economic impacts of introducing the ban, Cabinet agreed a transition period of up to 24 months which was deemed sufficient to allow existing contracts to be fulfilled and for affected businesses to reset business models.</p> <p>Livestock Export Review: Regulatory Impact Assessment, Ministry for Primary Industries, 10 March 2021. Accessible on The Ministry for Primary Industries' website at: https://www.mpi.govt.nz/dmsdocument/46549-Livestock-export-review-Regulatory-Impact-Statement</p>	
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2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:	
(a) the level of effective compliance or non-compliance with applicable obligations or standards?	NO
(b) the nature and level of regulator effort put into encouraging or securing compliance?	NO

<p>Non-compliance with the ban implemented by the Bill is highly unlikely given the export of livestock by sea is a strictly controlled activity. The Ministry for Primary Industries is responsible for approving the necessary Animal Welfare Export Certificates required to export livestock.</p>	
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Part Three: Testing of Legislative Content

Consistency with New Zealand's international obligations

3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?
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In addition to analysis from MPI's Legal and Policy and Trade teams, MPI has received advice from the Ministry of Foreign Affairs and Trade (MFAT) on New Zealand's international obligations and trade policy settings. Further consultation with MFAT was conducted throughout the process.

Consistency with the government's Treaty of Waitangi obligations

3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?

In addition to analysis from MPI's Legal team, Te Puni Kōkiri was consulted.
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Consistency with the New Zealand Bill of Rights Act 1990

3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?	NO
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The proposals in this Bill are not considered to raise human rights implications under the Human Rights Act 1993 or the New Zealand Bill of Rights Act 1990. The Ministry of Justice was also consulted.
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Offences, penalties and court jurisdictions

3.4. Does this Bill create, amend, or remove:	
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(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?	NO
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(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?	NO
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While the Bill does not create or remove offences or penalties, offences and penalties in Part 2, Section 40(1) of the Animal Welfare Act 1999 continue to apply. This applies to a person who commits an offence by exporting an animal from New Zealand to another country on a ship or aircraft other than under the authority, and in accordance with the conditions, of an animal welfare export certificate.
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3.4.1. Was the Ministry of Justice consulted about these provisions?	NO
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The Ministry of Justice was not consulted on these provisions, as the amendments to existing penalties are minor, as described above.

The Ministry of Justice was consulted regarding any implications for the Bill of Rights Act.
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Privacy issues

3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?	NO

External consultation

3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?	YES
<p>MPI released a discussion paper on 18 November 2019. Consultation was held over nine weeks, from 18 November 2019 to 22 January 2020. This was extended from an original deadline of Monday 6 January 2020.</p> <p>Consultation sought public feedback on four options:</p> <ul style="list-style-type: none">• Option one: total ban. No-one could export livestock.• Option two: conditional ban. No-one could export livestock unless the Director-General of MPI was satisfied that the risks to the welfare of animals being exported and New Zealand's reputation could be managed.• Option three: new regulations to enhance the export system that are not bans.• Option four: continuous improvement of the system, most of which could be done without a formal rule change. <p>Feedback was sought via an online survey accessible through MPI's consultation website and through emailed written submissions. The public was invited to comment on any or all of the options and on any general issues.</p> <p>MPI received 3791 submissions, including 3350 emailed written submissions, one mailed written submission and 440 online survey submissions. Of the emailed written submissions, 3275 were provided through SAFE's (Save Animals from Exploitation) campaign website and sought a total ban on the trade, and the other 75 written submissions were from a range of stakeholders and individuals. Submissions were made by:</p> <ul style="list-style-type: none">• 3365 individuals; and• 52 organisations. <p>A summary of submissions can be found on the Ministry for Primary Industries' website at: https://www.mpi.govt.nz/dmsdocument/44992-Summary-of-submissions</p>	

Other testing of proposals

3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?	YES
The policy details have been tested as workable.	

Part Four: Significant Legislative Features

Compulsory acquisition of private property

4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?	NO

Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	NO

Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	NO

Strict liability or reversal of the usual burden of proof for offences

4.4. Does this Bill:	
(a) create or amend a strict or absolute liability offence?	NO
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	NO

Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	NO

Significant decision-making powers

4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	NO

Powers to make delegated legislation

4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?	YES
The Bill amends the Director-General's power to grant an Animal Welfare Export Certificate (AWEC) by prohibiting him from doing so in the circumstances of exporting livestock by sea.	

4.8. Does this Bill create or amend any other powers to make delegated legislation?	NO

Any other unusual provisions or features

4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?	NO

