

## Animal Welfare (Kept Animals) Bill

<b>Lead department</b>	Department for Environment, Food and Rural Affairs
<b>Summary of proposal</b>	A proposal to ban live animal exports for slaughter and fattening; to restrict primate keepership to those who can provide zoo-level welfare standards; to improve zoo licencing and strengthen conservation requirements; to enhance powers to tackle livestock worrying; and to tighten restrictions on pet travel and impacts.
<b>Submission type</b>	Impact assessment (IA) – 12/05/2021
<b>Legislation type</b>	Primary legislation
<b>Implementation date</b>	2021 – 2023
<b>Policy stage</b>	Final
<b>RPC reference</b>	RPC-DEFRA-5038(1)
<b>Opinion type</b>	Formal
<b>Date of issue</b>	22 July 2021

## RPC opinion

<b>Rating<sup>1</sup></b>	<b>RPC opinion</b>
<b>Fit for purpose</b>	The IA is now fit for purpose after being revised in response to the RPC's initial review notice (IRN). As originally submitted, the IA was not fit for purpose because there were missing impacts affecting the EANDCB figure. The RPC can now validate the EANDCB for parts of the proposal, but further IA(s) will need to be produced at the secondary legislation stage.

## Business impact target assessment

	<b>Department assessment</b>	<b>RPC validated</b>
<b>Classification</b>		Qualifying regulatory provision
<b>Equivalent annual net direct cost to business (EANDCB)</b>	£0.5 million <i>(initial estimate)</i> £0.8 million <i>(final estimate)</i>	£0.8 million <i>(2019 prices, 2020 pv, excluding impacts of enabling powers)</i>
<b>Business impact target (BIT) score</b>	£4.2 million	£4 million <i>(Further IA(s) to be submitted at the secondary legislation stage)</i>
<b>Business net present value</b>	-£7.2 million	
<b>Overall net present value</b>	-£9.9 million	

<sup>1</sup> The RPC opinion rating is based only on the robustness of the EANDCB and quality of the SaMBA, as set out in the [Better Regulation Framework](#). The RPC rating is fit for purpose or not fit for purpose.

## RPC summary

Category	Quality	RPC comments
EANDCB	<b>Green</b>	The EANDCB is now in line with scenario 1b in the RPC's primary legislation guidance <sup>2</sup> , meaning that we are able to validate an EANDCB for part of the proposal at this stage, but it will be necessary for the Department to submit a further IA(s) to the RPC at the secondary legislation stage.
Small and micro business assessment (SaMBA)	<b>Green</b>	The IA sufficiently justifies why it would not be appropriate to exempt small and micro businesses. To mitigate the disproportionate burdens on small and micro businesses (SMBs), the Government proposes to work closely with the industry to develop guidance, in relation to the ban on live animal exports for slaughter and fattening, as to which journeys are permitted. To improve, the IA could provide details of other mitigations that were considered covering the other elements within the IA.
Rationale and options	<b>Satisfactory</b>	While the RPC is pleased to see the consideration of a range of options, there is limited evidence to support the rationale for intervention. The IA explains that the legislation is needed for the government to deliver on manifesto commitments and adequately explains the reason for these government commitments. The Department has now provided further evidence but there is still limited demonstration of the existence and significance of the market failures mentioned.
Cost-benefit analysis	<b>Satisfactory</b>	The IA makes good use of sensitivity and scenario analysis, and costs to the public sector are monetised where possible. The IA would be improved by quantification or at least an indication of the scale of benefits.
Wider impacts	<b>Satisfactory</b>	The IA considers potential impacts on trade and competition and notes that concerns regarding competition were raised at consultation.
Monitoring and evaluation plan	<b>Good</b>	The Department commits to reviewing the policy and helpfully sets out the monitoring plans for each proposal, suggesting they will be reviewed after 5 years.

<sup>2</sup> <https://www.gov.uk/government/publications/rpc-case-histories-primary-legislation-ias-august-2019>

## Response to initial review

As originally submitted, the IA was not fit for purpose because of missing costs and unjustified assumptions affecting the EANDCB. The IA as first submitted switched between reference to 'profit' and 'revenue' when referring to the 15 per cent used for the live exports' calculations. The IRN also requested further justification for the assumption. The IA has now clarified that 15 per cent refers to additional profit and further justifies using this assumption in the absence of stronger and more directly relevant evidence.

The original IA did not include business familiarisation costs. The IA now provides familiarisation costs for each of the measures affecting business. In response to the IRN, the EANDCB now includes estimates (of costs to business associated with live export journeys under 8 hours) that were originally only included in the sensitivity analysis and the Department has revised its assumption on the proportion of primate sellers considered to be businesses.

## Summary of proposal

The Bill includes five measures, which:

- prohibit the export of livestock (cattle, sheep, pigs and goats) and equines from Great Britain for slaughter and fattening;
- prohibit the keeping, breeding and selling of primates without a zoo licence, an Animals licence or a new specialist private primate keeper licence in England (this also prohibits the transfer of primates other than to those who hold a licence);
- decrease the number of pets that can travel in a single non-commercial movement from five per person to five per vehicle (on approved ferries and rail routes), and three per person when travelling as a foot passenger on a ferry route or by approved air routes (this measure also includes an enabling power to add restrictions to imports and non-commercial movements on welfare grounds through secondary legislation);
- broaden the scope of protection under the Dogs (Protection of Livestock) Act 1953 in relation to livestock worrying<sup>3</sup>; and
- reform the Zoo Licensing Act 1981 to increase the level of fines and give the Department the power to nominate inspectors based on their knowledge of certain species.

The Department has submitted an overarching IA (also referred to in this opinion as 'the IA') covering all five measures and has given the RPC sight of the detailed assessments for each individual measure. The Department has also submitted a separate IA on the ban of live animal exports for slaughter and fattening (which this

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<sup>3</sup> Livestock worrying refers to dogs attacking or chasing livestock in such a way as may reasonably be expected to cause injury or suffering to the animal.

Opinion refers to as ‘the live exports IA’). As this live exports measure is part of the Kept Animals Bill, this Opinion treats the live exports IA the same way as other individual assessments (i.e., as an annex to the overarching IA).

## EANDCB

The RPC now considers the EANDCB to be fit for purpose. It is in line with scenario 1b in the RPC’s primary legislation guidance<sup>4</sup>; we are able to validate an EANDCB for part of the proposal at this stage, but it will be necessary for the Department to submit a further IA(s) to the RPC at the secondary legislation stage.

The figure is made up only of costs, the majority are associated with the ban on exporting livestock for slaughter and fattening (£0.7m) and the ban on breeding and selling primates (£0.1m). Other monetised impacts include the cost to farmers from an increase in time spent reporting incidents of livestock worrying. Familiarisation costs have now been monetised. The IA also recognises (but does not monetise) the cost to rescue centres of rehoming primates. Individuals keeping primates as pets will have to either obtain a license or rehome their primate with a license keeper. Costs for unlicensed keepers are therefore transitional.

Cost arising from the live exports ban are estimated using an assumed profit differential between exporting livestock for slaughter or fattening and selling the livestock domestically. The live exports IA used the same assumption (15 per cent) at consultation stage and the Department did not receive any further evidence through its consultation. The IA now provides further evidence that the approach taken is proportionate as the number of sheep exported for slaughter is around 0.02 per cent of all livestock slaughtered in the UK. The IA now explains that the 15 per cent is used as a proxy for the percentage reduction in profit and explains that there was no available evidence on the difference in costs and revenue to enable the Department to estimate a more robust difference in profit. The IA supports the assumption by stating that a stakeholder considers the difference in profit level to be between 10 and 15 per cent. The IA states that “*in terms of product differentiation, live lamb from the UK were sold at a premium in Europe due to the higher quality of the product and high demand for live animals. This we consider justifies a higher margin assumption*” (paragraph 88 of the live exports IA). While the RPC accepts this approach in the absence of further evidence, the Department should monitor the changes in the domestic market and the trade of meat. Using this to estimate the price and production cost differentials as well as a range of elasticities would allow the Department to assess the business impact more accurately. In response to the IRN the IA now also includes familiarisation and administrative costs.

As originally submitted, the live exports IA excluded journeys of less than eight hours from its main analysis but included them as part of a high estimate in the scenario analysis. As these exporters will be directly affected, the RPC did not consider it

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<sup>4</sup> <https://www.gov.uk/government/publications/rpc-case-histories-primary-legislation-ias-august-2019>

appropriate to omit these estimates from the EANDCB. The IA now includes the associated impacts and provides a clear explanation as to why this may result in an overestimate. However, when demonstrating how the familiarisation costs for businesses responsible for these journeys are calculated, the IA explains that the number of consignments (4,380) is used as a proxy for the number of organisers. The IA states that: *“This is likely to be a significant overestimate as for journeys over 8 hours, 172 organisers submitted 7,427 number of journey logs. In addition, 2019 data from the Annual Business Survey (ABS) indicates that there are 486 businesses in wholesale of live animals”* (paragraph 97 of the live exports IA). While the RPC advised that costs for these businesses should be included, it does not seem appropriate to include familiarisation costs for 4,380 organisers when it is known that only 486 businesses exist. On the basis of proportionality, the RPC can still validate the EANDCB, but the IA would be improved by revising this assumption. The Department could use the ratio of organisers to journey logs for journeys over 8 hours to estimate the organisers for the journeys under 8 hours (using the 4,380 consignments as a proxy for the number of journeys, as the IA does for administrative costs).

On the provision that prohibits the selling of primates without a license, the IA states that *“individuals will have 12 months from the introduction of the licence to register their primate with their local authority. They will have a further 12 months to either meet the licensing standards and obtain a licence, or rehome their primate with a licensed keeper”*. The IA recognises that this will mean rehoming some primates, and we are pleased to see the consideration of the impacts of this on civil society organisations (CSOs). The IA states that the impacts of the ban are expected to be low because *“there are only a small number of primates currently being kept as pets”*. The Department’s ‘call for evidence’ indicated that a proportion of breeders are non-commercial. Due to a lack of further evidence the original IA assumed that 50 per cent of sales are from businesses. While the Department was not able to provide any further evidence, it has revised its assumption and assumed that all sales are commercial, while recognising that this may be an overestimate. This is adjusted in the IA’s sensitivity analysis. The original IA also omitted familiarisation costs from the EANDCB figure, these estimates are now included in the revised IA. It is not clear from the IA whether the purchasing of primates will be prohibited and what the cost will be to sellers of verifying the licenses of potential buyers.

The IA suggests that there are no direct business impacts arising from the pet travel provisions at the primary legislation stage as the proposals are intended to deter activity that is already illegal. However, there are likely to be direct business impacts at the secondary legislation stage arising from restrictions to commercial imports. The RPC welcomes the submission of a further IA on this measure.

The RPC considers the assessment of the changes to the Dogs (Protection of Livestock) Act 1953 and the Zoo Licensing Act 1981 to be proportionate now that familiarisation costs have been estimated and included in the EANDCB. For the

livestock worrying measure (which broadens the definition of livestock, broadens the locations covered by the Act, defines the term ‘close control’, and introduces ancillary orders including dog control, disqualification and destruction orders, and extended police powers), the IA applies familiarisation costs to all livestock holding businesses in England and Wales, rather than just to the number of businesses that have experienced incidents of livestock worrying. The RPC considers this approach to be proportionate but agrees with the IA that it is likely to be an overestimate. The IA also monetises the cost of reporting more incidents to the police but explains that costs are expected to be outweighed by benefits in the form of improvements in livestock welfare.

## SaMBA

The RPC considers the SaMBA to be fit for purpose. The IA sufficiently justifies why it would not be appropriate to exempt SMBs. However, the IA states that “*the farming and agricultural sector tends to be dominated by small and micro business and therefore costs are likely to fall disproportionately on SMBs*” which does not necessarily follow. The IA would benefit from considering the average ratio of costs to turnover across farms of different sizes to identify disproportionality. The live exports IA usefully provides a breakdown of farms by size and the likelihood of impacts. To mitigate disproportionate burdens on SMBs, the Government proposes to work closely with the industry to develop guidance on which journeys are permitted. To improve the SaMBA, the IA could provide, in relation to the other elements of the proposals, details of other mitigations that were considered (and why they were not taken forward). The IA should also consistently use the acronym SMBs rather than SMEs which refers to small and medium-sized enterprises.

## Rationale and options

The RPC considers the rationale and options to be satisfactory. While the RPC is pleased to see the consideration of a range of options, there is limited evidence to support the rationale for intervention. The IA explains that the legislation is needed for the government to deliver on manifesto commitments and adequately explains the reason for these government commitments (i.e. public support for improved animal welfare rather than a market failure). However, while the RPC recognises the difficulty of quantifying improvements to animal welfare, there is limited evidence on the benefits of the proposals. The IA therefore does not demonstrate that the measures will increase animal welfare, or whether the public will be sufficiently aware of any improvements. The IA now includes some evidence on scale of the issues. It explains that animal welfare groups estimate that there are between 1,000 and 5,000 privately kept primates in England, many of whom are kept in inadequate conditions. It also now demonstrates the increase in pet travel and the support for the live exports ban.

The live exports IA could provide more justification for regulatory intervention when it appears that such a small proportion of livestock is exported in this way. This could be based on the apparent disconnect between public and commercial valuation of this trade, which points to an externality associated with the failure of the market fully to internalise the shadow price of animal welfare. The IA should also provide detail of business responses to the consultation rather than just focussing on views from the general public.

## **Cost-benefit analysis**

The RPC considers the cost-benefit analysis to be satisfactory. The IA makes good use of sensitivity and scenario analysis, and costs to the public sector are mostly monetised where possible. The IA would benefit from monetising the costs to local authorities of regulating the keeping of primates, to support the statement that these costs are expected to be recovered through licensing fees. The live exports IA recognises the animal welfare benefits and the displacement benefits to domestic businesses, but these are not monetised.

## **Wider impacts**

The RPC considers the assessment of wider impacts to be satisfactory. The IA discusses the potential trade impacts of the proposals. However, this section of the IA could discuss possible increase in domestic business (including domestic sales as farmers respond to loss of markets and an increase in UK slaughter leading to export of carcasses). These impacts are mentioned throughout the live animal exports IA, but there is no quantification of impacts. The IA could draw on evidence from previous restrictions on exports of live animals, which do not appear to be mentioned.

In response to the IRN, more detail has been provided on the EU trade agreement and the NI protocol. The IA now clarifies that the Bill makes changes to the relevant retained EU legislation to ban live exports for fattening and slaughter (which is permitted for EU member states under single market rules). Northern Ireland will continue to follow EU legislation. The IA would benefit from a further assessment of the impacts relating to this, such as the cost of rerouting live exports from NI to the EU that would have gone through Britain.

The live exports IA also considers the impact on competition and states that concerns regarding competition were raised at consultation (the IA now explains that the concerns raised include price control, the market being dominated by a small number of large slaughterhouses, and barriers to entry.) The Department is continuing to analyse these concerns and engage with stakeholders so that the impacts can be kept under review after implementation.

## Monitoring and evaluation plan

The RPC considers the monitoring and evaluation plan to be good. The Department commits to reviewing the policy and helpfully sets out the monitoring plans for each proposal, suggesting they will be reviewed after 5 years. The IA usefully highlights that regulatory provisions require review provisions under the Small Business, Enterprise and Employment Act 2015, which “*requires Ministers making or amending secondary legislation either to include a review provision, or to publish a statement that a review is not appropriate.*” The Department must ensure that this requirement is adhered to for all relevant provisions.

## Other comments

The RPC commends the Department for helpfully setting out when each measure will be implemented. We welcome the submission of a further IA(s), particularly on pet travel and imports, at the secondary legislation stage. The RPC would also expect to see any future IAs relating to this case or the IA that we opined on at consultation stage.

### Regulatory Policy Committee

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