

EXPLANATORY MEMORANDUM FOR EUROPEAN UNION LEGISLATION WITHIN THE SCOPE OF THE UK/EU WITHDRAWAL AGREEMENT AND THE WINDSOR FRAMEWORK

**COM(2023) 770 FINAL + ANNEXES 1 TO 6 PROPOSAL FOR A REGULATION OF
THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE PROTECTION
OF ANIMALS DURING TRANSPORT AND RELATED OPERATIONS, AMENDING
COUNCIL REGULATION (EC) NO 1255/97 AND REPEALING COUNCIL
REGULATION (EC) NO 1/2005**

SEC(23)397 FINAL Opinion of the Regulatory Scrutiny Board

SWD(23)399 FINAL Subsidiarity Grid

SWD(23)401 (PARTS 1 AND 2) Impact Assessment Report

SWD(23)402 FINAL Executive Summary of the Impact Assessment Report

Submitted by the Department for the Environment Food and Rural Affairs

15 May 2024

SUBJECT MATTER

1. This EM sets out the details of the Proposed Regulation of the European Parliament and Council on the protection of animals during transport and related operations. This proposed Regulation will repeal Council Regulation (EC) 1/2005.
2. The principal legislation governing the protection of animals during their transport within Great Britain, from Great Britain to third countries and on their arrival from third countries is set out in Regulation (EC) No 1/2005 on the protection of animals during transport and related operations (assimilated as necessary into domestic law).
3. In the context of the Farm to Fork Strategy, the European Green Deal's agenda for sustainable agriculture and food production, the Commission announced its intention to revise the legislation on animal welfare during transport. The Commission carried out a fitness check of the EU animal welfare legislation, which was finalised in 2022. This formed the basis for the Commission to pursue changes to the existing regulations.
4. This proposed Regulation and associated Annexes were published on 7 December 2023 as part of the Commission's annual work programme.

SCRUTINY HISTORY

5. The Parliamentary scrutiny history relevant to this Explanatory Memorandum is contained in the attached Annex A.

MINISTERIAL RESPONSIBILITY

6. Responsibility lies with the Secretary of State for Environment, Food and Rural Affairs.

INTEREST OF THE DEVOLVED GOVERNMENTS (DGs)

7. Animal welfare during transport is an area of devolved competence, and this EM has been shared with officials from the Scottish and Welsh Government as well as colleagues at the Department of Agriculture, Environment and Rural Affairs. Animal welfare in transport is managed through the provisional Animal Health and Welfare Common Framework.
8. Defra continues to work with the Scottish and Welsh Governments to consider how the protections of animal welfare during transport can be strengthened under domestic regulation.
9. Council Regulation (EC) 1/2005 is listed in Annex 2 to the Windsor Framework. We continue to work with the Department of Agriculture, Environment and Rural Affairs to assess the impact of the proposed Regulation in Northern Ireland.

LEGAL AND PROCEDURAL ISSUES

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 - i. **Legal Base:** The legal bases of the legislative proposal are Articles 43 and 114 of the Treaty on the Functioning of the European Union (TFEU). Article 43 provides the basis for the EU legislative measures on the Common Agricultural Policy, qualified by the Lisbon Treaty as shared competence between the EU and its Member States. Article 114 provides the legal basis for the establishment and functioning of the internal market and the approximation of provisions laid down by the law, regulation or administrative actions in this respect. This proposed Regulation will be subject to ordinary legislative procedure as set out in Article 294 of the TFEU.
 - ii. **Voting Procedure:** Qualified Majority (Article 294(8)) as defined by Article 238(3). A qualified majority shall be defined as at least 55% of the members of the Council representing the participating Member States, comprising at least 65% of the population of these States. A blocking minority must include at least the minimum number of Council members representing more than 35% of the population of the participating Member States, plus one member, failing which the qualified majority shall be deemed attained.

- iii. **Timetable for adoption and implementation:** The European Council discussed the proposed Regulation on 11 December 2023. There is widespread support for the principle of improving animal welfare amongst Member States, although there is some concern on how it will impact competitiveness.

Negotiations between the European Commission, Parliament and Council will take several months before the final text of the proposed Regulation is agreed, and the timing for such discussions is unclear. Once the Regulation is finalised and comes into force, it will not be applicable for a further two years. Many of the requirements within the proposed Regulation have an additional transition period of five years.

POLICY AND LEGAL IMPLICATIONS

11. The key areas of difference between this proposed Regulation and the current regulation are in regard to maximum journey times, requirements on space allowances and temperature, authorisation of organisers, Journey Log requirements and digitisation of vehicle tracking.
12. The requirements in the proposed Regulation would apply to journeys between Great Britain and the EU or Northern Ireland and the EU, movements within Northern Ireland, and movements between Great Britain and Northern Ireland. We are engaging with the EU Commission through the Agri Food Structured Group to understand the proposals, and develop our analysis of any impacts.
13. The proposed Regulation is intended to deliver a higher level of animal welfare in transport. The issues that it looks to address include:
- **Maximum journey times** – currently, permitted maximum journey times vary between species but are applied uniformly, regardless of the purpose of the journey. Journey cycles can be repeated indefinitely following mandatory rest periods. For instance, cattle and sheep can travel for 29 hours before a 24-hour rest, and this cycle can then be repeated. For poultry and domestic rabbits, there is a maximum journey time of 12 hours, disregarding loading and unloading, unless adequate food and water is provided.

Under the proposed Regulation, journeys for slaughter will be limited to 9 hours for terrestrial animals other than rabbits and domestic birds (chickens, laying hens, turkeys etc.) and there can be no repeat of journey cycles. We are engaging with relevant sectors to fully understand the impact of this proposal. For terrestrial animals other than rabbits and domestic birds, the proposal is for journeys for any purpose other than slaughter to be limited to a maximum of 21

hours, followed by a 24-hour rest, and then a final maximum journey time of 21 hours. For all journeys, poultry will have a maximum journey time of 12 hours, including loading and unloading time, and end of lay hens will have a maximum journey time of 10 hours, and there can be no repeat of journey cycles. Adult breeding rabbits can be transported for up to 24 hours if they have permanent access to feed and hydration.

- **Vulnerable animals** – currently, unweaned animals can be transported for up to 19 hours before a 24-hour rest, and this cycle can be repeated indefinitely. Pregnant animals at more than 90% of the gestation period cannot be transported. Under the proposed Regulation, journey times of unweaned animals will be limited to 8 hours, without repeat, except where the vehicle is fitted with a specialist feeding mechanism to provide milk replacement. In those cases, these animals may be transported for a maximum of 9 hours, and then following a rest period of at least 1 hour, a maximum of a further 9 hours with no further repeat cycles. Pregnant animals at more than 80% of the gestation period cannot be transported.
- **Transport in extreme temperatures** – currently, requirements only apply when moving horses, cattle, sheep, goats or pigs for journeys over 8 hours and are based on the internal temperature of the vehicle being maintained between 5°C and 30°C, with a +/- 5°C tolerance. Under the proposed Regulation, requirements will be based on external temperature and humidity, and apply to all journeys. The proposal will not prohibit transport during extreme temperatures but seeks to mitigate associated risks. For example, when temperatures are forecasted below -5°C, journey times should not exceed 9 hours, and for forecasts above 30°C, journey times will be restricted to overnight periods.
- **Space allowances** – currently, there are specific floor space allowances dependent on weight and age, for horses, cattle, sheep, pigs and poultry. Sufficient headroom is required to ensure there is adequate ventilation above the animals when they are in a natural standing position, and that their movement is not hindered in any way. For horses only, there is a specified headroom requirement of 75cm above the wither. Under the proposed Regulation, space allowances will be calculated using an allometric equation that incorporates the weight of the animal and a scaling-value for different species. There will be new, specified headroom requirements for cattle, sheep, equine, domestic birds and slaughter rabbits. For instance, there must be 15cm headroom for sheep in vehicles with mechanical ventilation, and 30cm in naturally ventilated vehicles.
- **Aquatic animals** – currently, the Regulation applies to live vertebrate animals (including ornamental fish) only. The proposed Regulation will also apply to

decapods and cephalopods. For these animals, there will be specific requirements for the design and maintenance of the vehicle, handling, water quality, fitness for transport, and loading and unloading practices. Ornamental fish will be excluded from the proposed Regulation.

- **Commercial movements of dogs and cats** – currently, dogs and cats being transported must be fed at intervals of not more than 24 hours, and given water at intervals of not more than 8 hours. The proposed Regulation includes specific protections on the minimum age of transport, watering and feeding intervals, temperature and humidity monitoring within the vehicle and conditions that must be maintained in the animal compartment.
- **Exports to third countries** – currently Journey Logs are required for all long journeys between Member States and third countries of domestic equines (other than registered equines), cattle, sheep, pigs and goats. The proposed Regulation will make Journey Logs a requirement for all species, and for all journeys to third countries, regardless of duration. The proposal also includes new requirements for EU exporters carrying out journeys to third countries. This will include review of the first journey to a third country by a certification body and at least two unannounced evaluations of journeys during a five-year authorisation period. The certification body will evaluate whether key requirements from the proposed Regulations are met.
- **Imports from third countries** – the proposed Regulation includes a new requirement that all animals imported into the EU are transported from the place of departure in the exporting country to the place of destination in the EU in accordance with the conditions set out in the Regulation or under conditions recognised by the EU to be equivalent. Export Health Certificates accompanying the animals will need to include an attestation from the Competent Authority that the planning of the journey complies with requirements that are equivalent to those in the proposed EU regulation. In the case of long journeys, the Competent Authority in the exporting country must also review and approve the Journey Log prior to departure.

14. The proposed Regulation will also make changes which are intended to improve enforcement:

- **Definition of economic activity** – currently, the regulations apply to transport for commercial purposes, which directly or indirectly involves or aims at a financial gain, and can be open to interpretation. Under the proposed Regulation, certain journeys will be explicitly excluded from the requirements, such as the transport of animals for competition and leisure.
- **Definition of a long journey** – increased from 8 hours to 9 hours, to align with EU rules on social rights of drivers.

- **Role of the journey organiser** – includes a new requirement that organisers will have to be authorised by the Competent Authority.
- **Certificates of competence** – currently, drivers and attendants transporting equines, bovines, ovine, caprine and poultry are required to have such certificates, but under the proposed Regulation this will apply to all species transported by road or rail. The proposed Regulation includes a new requirement that Animal Welfare Officers will be required to care for animals transported on livestock vessels and have a certificate of competence.
- **Journey logs** – currently required for all long journeys between Member States and third countries of domestic equines (other than registered equines), cattle, sheep, pigs and goats. Under the proposed regulation, Competent Authorities should approve Journey Logs for all species and for long journeys both within the EU and to third countries, as well as short journeys to third countries. For short journeys within the EU, the organiser must complete a Journey Log which is not approved, but must be retained for six years.
- **Mobile application** – under the proposed Regulation the Journey Logs process described above will be digitised.
- **Vehicle positioning system** – this is a new requirement of the proposed Regulation, to enable the Competent Authority to access real-time information on the journeys being undertaken. The proposed Regulation does not specify a need for temperature monitoring equipment although it is a current requirement.

15. We are yet to quantify the impacts and we will be undertaking a full analysis of the new requirements. We will seek more information on the proposed Regulation at the Agri Food Structured Group established under the Windsor Framework.

16. It should be noted that these proposals sit alongside the UK Government's own efforts to improve animal welfare during transport. In late 2020, the UK and Welsh Governments jointly consulted on improvements to animal welfare in transport, and on whether to ban the export of livestock and equines for slaughter and fattening. The consultation covered many of the issues set out in the proposed EU Regulation, including maximum journey times, space allowances and temperature ranges. The response to the consultation was published in August 2021¹.

17. Following the consultation, the Government introduced the Animal Welfare (Livestock Exports) Bill, which is currently nearing the end of its parliamentary passage. The Bill will ban live exports for slaughter and fattening from Great Britain to countries outside of the United Kingdom, the Channel Islands and the Isle of Man. The Bill will ban the export of cattle, sheep, goats, pigs and equines for

¹ [Improvements to animal welfare in transport: summary of responses and government response \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/consultations/animal-welfare-improvements-to-transport).

slaughter and fattening, stopping unnecessary stress, exhaustion and injury caused by this trade. The Bill will not apply in Northern Ireland, to ensure that farmers in Northern Ireland have unfettered access to both the UK and Republic of Ireland markets.

18. With regard to improvements to animal welfare in transport in Great Britain, we have been engaging, jointly with Welsh and Scottish Governments, with a wide range of stakeholders across all sectors on next steps. As we determine these, we will keep any resulting differences with the proposed EU Regulation, and potential impacts on industry, under review.

CONSULTATION

19. The UK Government and the devolved governments have not undertaken a consultation on this EU proposal. As more detail becomes available, we will engage with stakeholders across the UK to identify any concerns, and ensure we manage any impacts in the most effective way.

20. In turn we can and will engage with the Commission on this proposed Regulation through new Joint Consultative Working Group structures such as the Agri-Food Structured Group.

21. Defra and the devolved governments continue to engage the sector on a regular basis regarding the movement and welfare of animals, and as above, will work with them to assess potential impacts.

FINANCIAL IMPLICATIONS

22. As these are draft proposals it is difficult to accurately assess their financial impact. As more detail is confirmed, we will revert with a more detailed analysis.



THE RT. HON. MARK SPENCER MP
MINISTER OF STATE FOR FOOD, FARMING AND FISHERIES
DEPARTMENT FOR ENVIRONMENT, FOOD AND RURAL AFFAIRS

PARLIAMENTARY SCRUTINY HISTORY RELEVANT TO:

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE PROTECTION OF ANIMALS DURING TRANSPORT AND RELATED OPERATIONS, AMENDING COUNCIL REGULATION (EC) NO 1255/97 AND REPEALING COUNCIL REGULATION (EC) NO 1/2005

EM 8280/20 +ADD 1: COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS A FARM TO FORK STRATEGY FOR A FAIR, HEALTHY AND ENVIRONMENTALLY-FRIENDLY FOOD SYSTEM

DEFRA SUBMITTED AN EM DATED 26 JUNE 2020. SEM 15 JULY 2020

SCRUTINY COMMITTEES' RECOMMENDATIONS:

COMMONS	LORDS
SCRUTINY COMPLETE (ESC OUTCOME AGENDA 24) 21/10/2020	DRAWN TO THE ATTENTION OF (EU ENVIRONMENT SUB COMMITTEE) AT CHAIR'S SIFT 23 23/7/2020

BEIS EM 15051/19, COM(19)940:COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE EUROPEAN COUNCIL, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS THE EUROPEAN GREEN DEAL

BEIS EM DATED 14 JANUARY 2020

COMMONS	LORDS
COMPLETED SCRUTINY AS POLITICALLY IMPORTANT ON 25 JUNE 2020 IN REPORT 14, 19/21	COMPLETED SCRUTINY 5 NOVEMBER 2020