

Animal Welfare Amendment Bill

Government Bill

Explanatory note

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 the Ministry for Primary Industries (**MPI**) to report back with advice on 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—

- 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
- 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.

Departmental disclosure statement

The Ministry for Primary Industries is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2021&no=67>

Regulatory impact statement

The Ministry for Primary Industries produced a regulatory impact statement on 10 March 2021 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

A copy of this regulatory impact statement can be found at—

- <https://www.mpi.govt.nz/dmsdocument/46549-Livestock-export-review-Regulatory-Impact-Statement>
- <https://treasury.govt.nz/publications/informationreleases/ris>

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause. The Bill comes into force the day after the date on which this Bill receives the Royal assent, except clauses 6, 8, and 11, which come into force on 30 April 2023.

Clause 3 states that this Bill amends the Animal Welfare Act 1999 (the **Act**).

Clause 4 replaces section 8A of the Act with *new section 8A*, which is the operative provision for Schedule 4 of the Act (as amended by clause 12 of the Bill to become a schedule of transitional, savings, and related provisions).

Clause 7 inserts *new section 41* into the Act. *New section 41* prohibits applications for, and the issue of, animal welfare export certificates for the export of cattle, deer, goats, or sheep by ship if the animals would leave New Zealand on or after 30 April 2023. Section 40(1) of the Act provides that it is an offence to export an animal from New Zealand to another country, except under the authority of, and in accordance with the conditions of, an animal welfare export certificate. Prohibiting the issue of these certificates for the export of cattle, deer, goats, or sheep by ship has the effect of an absolute prohibition on these exports from 30 April 2023.

Clauses 5, 9, and 10 are consequential amendments that do the following:

- *clause 5* amends section 40 of the Act. Section 40(2) provides some exceptions to the offence created by section 40(1). *New subsection (2A)* is added to make

any exception under section 40(2) unavailable for exports prohibited because of *new section 41*:

- *clause 9* amends section 42(1) of the Act, which enables any person to apply for an animal welfare export certificate. The amendment ensures that the ability to apply for animal welfare export certificates is not available for exports prohibited because of *new section 41*:
- *clause 10* amends section 48 of the Act, which enables the Director-General to create exemptions from the requirement to have an animal welfare export certificate before exporting animals. *New section 48(1A)* is added to prohibit the Director-General from making exemptions for exports prohibited because of *new section 41*.

Clauses 6, 8, and 11, which all come into force on 30 April 2023, amend sections 40, 41, and 48 respectively. These amendments remove references to the commencement date of the prohibition on the export of cattle, deer, goats, or sheep by ship. It is unnecessary to qualify the application of those sections by reference to a future date after that date has passed.

Clause 12 amends Schedule 4 of the Act. In particular, it inserts *new Part 2* into Schedule 4, which contains the transitional provisions relating to this Bill as follows:

- *new clauses 5 and 6 of Schedule 4* effectively revoke animal welfare export certificates to the extent that they are inconsistent with *new section 41*:
- *new clause 7 of Schedule 4* effectively nullifies instruments referred to in section 40(2) of the Act to the extent that they would otherwise authorise the export of cattle, deer, goats, or sheep by ship on or after 30 April 2023.

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Animal Welfare Amendment Act **2021**.
- 2 Commencement**
This Act comes into force as follows: 5
- (a) **sections 6, 8, and 11** come into force on **30 April 2023**;
- (b) the rest of this Act comes into force the day after the date on which this Act receives the Royal assent.
- 3 Principal Act**
This Act amends the Animal Welfare Act 1999. 10
- 4 Section 8A replaced (Transitional and savings provisions relating to amendments to Act)**
Replace section 8A with:
- 8A Transitional, savings, and related provisions**
The transitional, savings, and related provisions set out in Schedule 4 have effect according to their terms. 15
- 5 Section 40 amended (Animal welfare export certificate)**
- (1) Replace the heading to section 40 with “**Animal export requires animal welfare export certificate**”.
- (2) After section 40(2), insert: 20
- (2A) However, the exception in subsection (2) does not apply to the exportation of cattle, deer, goats, or sheep by ship if the animals would leave New Zealand on or after 30 April 2023.
- 6 Section 40 amended (Animal export requires animal welfare export certificate)** 25
In section 40(2A), delete “if the animals would leave New Zealand on or after 30 April 2023”.
- 7 New section 41 inserted (Animal welfare export certificate must not be issued for certain animals)**
After section 40, insert: 30
- 41 Animal welfare export certificate must not be issued for certain animals**
- (1) A person must not apply for, and the Director-General must not issue, an animal welfare export certificate for the export of cattle, deer, goats, or sheep by ship.

- (2) However, **subsection (1)** applies only if the intended date for the cattle, deer, goats, or sheep to leave New Zealand is on or after 30 April 2023.
- 8 Section 41 amended (Animal welfare export certificate must not be issued for certain animals)**
Repeal section 41(2). 5
- 9 Section 42 amended (Application for animal welfare export certificate)**
In section 42(1), after “animal welfare export certificate”, insert “, unless restricted by **section 41**”.
- 10 Section 48 amended (Exemptions)**
After section 48(1), insert: 10
- (1A) However, the Director-General must not exempt the export of cattle, deer, goats, or sheep by ship if the animals would leave New Zealand on or after 30 April 2023.
- 11 Section 48 amended (Exemptions)**
In section 48(1A), delete “if the animals would leave New Zealand on or after 30 April 2023”. 15
- 12 Schedule 4 amended**
- (1) Replace the Schedule 4 heading with:
- Schedule 4**
Transitional, savings, and related provisions 20
- s 8A**
- (2) In Schedule 4, before clause 1, insert:
- Part 1**
Provisions relating to Animal Welfare Amendment Act (No 2) 2015 25
- (3) In Schedule 4, clause 1, replace “schedule” with “Part”. 25
- (4) In Schedule 4,—
- (a) insert the Part set out in the Schedule of this Act as the last Part; and
- (b) make all necessary consequential amendments.

Schedule
New Part 2 inserted into Schedule 4

s 12

Part 2		
Provisions relating to Animal Welfare Amendment Act 2021		
5	Animal welfare export certificates issued before 30 April 2023	5
(1)	This clause applies to an animal welfare export certificate that—	
(a)	authorises the export of cattle, deer, goats, or sheep by ship; and	
(b)	is issued before 30 April 2023.	
(2)	The animal welfare export certificate is revoked on 30 April 2023 to the extent that it—	10
(a)	authorises the export of cattle, deer, goats, or sheep by ship; and	
(b)	relates to an export by a ship that starts its voyage from a New Zealand port on or after 30 April 2023.	
6	Applications for animal welfare export certificates made before 30 April 2023	15
(1)	This clause applies to an application for an animal welfare export certificate that—	
(a)	relates to the export of cattle, deer, goats, or sheep by ship; and	
(b)	is made before 30 April 2023.	20
(2)	If the Director-General does not decide whether to grant or refuse the application before 30 April 2023, the application must be treated as withdrawn to the extent that it relates to the export of cattle, deer, goats, or sheep by ship.	
(3)	If the Director-General grants the application but does not issue or refuse to issue the animal welfare export certificate before 30 April 2023, the Director-General must be treated as refusing to issue the certificate to the extent that it relates to the export of cattle, deer, goats, or sheep by ship.	25
7	Other instruments published or issued before 30 April 2023	
(1)	This clause applies to any instrument referred to in section 40(2) that—	
(a)	applies to the export of cattle, deer, goats, or sheep by ship; and	30
(b)	is published or issued before 30 April 2023.	
(2)	The instrument ceases to have effect for the purpose of section 40(2) (that is, as an exception to the offence created by section 40(1)) to the extent that the instrument—	
(a)	applies to the export of cattle, deer, goats, or sheep by ship; and	35

- (b) relates to an export by a ship that starts its voyage from a New Zealand port on or after 30 April 2023.