



Proposed regulations for the transport of live animals from New Zealand

Consultation Document

MPI Discussion paper No: 2016/13

Prepared for public release by the Ministry for Primary Industries

ISBN No: 978-1-77665-220-4 (online)

ISSN No: 2253-3907 (online)

ISBN No: 978-1-77665-221-1 (print)

ISSN No: 2253-3893 (print)

April 2016

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1 Purpose of this consultation document

This consultation document invites interested parties to provide feedback on proposed regulations for the transport of live animals by 19 May 2016.

2 Submissions

2.1 HOW TO HAVE YOUR SAY

The deadline for making a final submission on this consultation document is 19 May 2016.

Comments can be provided by e-mail to Animal.WelfareSubmissions@mpi.govt.nz or by post to:

Ministry for Primary Industries (MPI)
PO Box 2526
Wellington 6140.

Please include the term "Submission on proposed regulations for the export of live animals" clearly in the e-mail subject field or on the front of the envelope.

All received submissions will be acknowledged.

Your submission should include:

1. Your name and address for correspondence
2. The date of your submission
3. The specific aspects of the proposal that you support or oppose
4. The reasons for your support or opposition
5. Any recommendations you wish to be considered.

Submissions are public information

Submissions provided to MPI on this proposal will be subject to the provisions of the Official Information Act 1982. This Act requires information to be made available on request unless there is good reason, pursuant to the Act, to withhold the information. If you do not wish any material in your submission to be released, or if you are submitting as an individual and do not wish your identity to be disclosed, please specify the material that you wish to be withheld and the grounds (as set out in the Act) for withholding it.

The decision whether to release information under the terms of the Act rests with the Director-General of MPI. Any decision to withhold information is subject to appeal to the Office of the Ombudsmen.

3 Overview

Animals play an important role in many aspects of New Zealand life, and New Zealanders have high expectations of our animal welfare system. As a country that relies on pastoral farming and agricultural production, animal welfare is fundamental to our economy.

New Zealand has a long history of exporting live animals. The majority of live animals transported across international borders need to be accompanied by certification authorising their export.

The main types of live animals exported from New Zealand are horses, day-old chicks, hatching eggs and dairy cattle. Most horses (60 percent) exported are thoroughbred racehorses sent to Australia. In 2014, over a million day-old-chicks were exported to twenty countries around the world, and over 3 million hatching eggs were exported to ten countries including Fiji and New Caledonia. Dairy cattle are also exported to China for breeding purposes.

The welfare of animals being exported is regulated under the Animal Welfare Act 1999 (the Act). The fundamental principle of this Act is that all New Zealanders have an obligation to provide for the welfare of animals in their care by attending to their physical, health, and behavioural needs.

Part 3 of the Act relates to live animal exports. This part of the Act seeks to minimise any welfare risks faced by animals being exported, and to protect New Zealand's reputation as a responsible exporter of animals and products made from animals. The Act requires that all live animals be exported under the authority and in accordance with the conditions of an Animal Welfare Export Certificate (AWEC) issued by the Director-General of the Ministry for Primary Industries (MPI), unless exempt under law¹.

An AWEC is granted on a case by case basis, once the Director-General is satisfied that any risks to animal welfare and New Zealand's reputation associated with the export can be adequately managed. The Director-General can impose conditions as part of an AWEC, where these are considered necessary to further protect the welfare of animals or New Zealand's reputation.

3.1 REVIEW OF THE ANIMAL WELFARE ACT 1999

The Animal Welfare Act 1999 was recently reviewed to ensure that our animal welfare standards keep pace with changes in scientific knowledge and good practice, available technology, and society's expectations.

As a result of this review the Animal Welfare Amendment Act (No 2) 2015 (the Amendment Act) was passed into law on 9 May 2015. The Amendment Act has made changes to the Animal Welfare Act 1999 (the Act).

The fundamental principle of the Act that all New Zealanders have an obligation to provide for the welfare of animals in their care by attending to their physical, health, and behavioural needs has not changed. However, Part 3 (Animal exports) of the Act has been changed to:

¹ Currently exemptions apply to certain animals, where the travel time from the New Zealand port of departure to the port of arrival does not exceed 6 hours, for example, cats, dogs, goats and sheep. Several other animals are also exempt irrespective of their travel time, for example, cats and dogs to Australia, crab, crayfish, fish, lobster, octopus, squid, and poultry hatching eggs (being avian pre-hatched young in the last half period of development. For a full list of exemptions refer <http://www.mpi.govt.nz/>.

- enhance the welfare of animals being exported from New Zealand; and
- further protect New Zealand's reputation as a responsible exporter of animals and products made from animals.

3.1.1 Changes to the live animal export provisions

New provisions have been inserted into the Act that:

- allow regulations to be made prescribing requirements and other matters relating to the exportation of animals, including regulations to prohibit, either absolutely or conditionally, any specified type of exportation of animals;
- expand the purpose of Part 3 of the Act to include the protection of New Zealand's reputation as a responsible exporter of animals and products made from animals.

New provisions have been inserted into the Act that will come into force 5 years after the date on which the Amendment Act received Royal Assent (i.e. in 2020) or on an earlier date appointed by Order in Council through a commencement order. These provisions:

- expand the matters that the Director-General of MPI must or may have regard to when considering an application for an AWEC, including New Zealand's reputation as a responsible exporter of animals and products made from animals, post-arrival conditions and the welfare of animals previously exported by an applicant for up to 30 days post arrival;
- allow the Director-General to impose conditions on an AWEC requiring an exporter to report on the way animals were managed during the journey and on their welfare for up to 30 days after arrival;
- allow the Director-General to refuse to issue an AWEC, or revoke or amend an AWEC, if any relevant regulations are not complied with;
- repeal section 41 of the Act, which provides for the Director-General to publish guidelines for the issue of AWECs.

Appendix A sets out in detail the changes and new provisions of the Act.

4 Proposed Regulations

4.1 SCOPE OF THE PROPOSED REGULATIONS

It is proposed that regulations be made to:

- bring the current conditional prohibition on the export of livestock for slaughter under the jurisdiction of the Animal Welfare Act. Currently this policy is implemented by the Customs Export Prohibition (Livestock for Slaughter) Order 2013 (CEPO) issued under the Customs and Excise Act 1996;
- prescribe offences and penalties relating to breaches of the proposed regulations;
- bring into force the new provisions of the Act that set out the matters the Director-General must have regard to when considering an application for an AWEC (refer section 43);
- bring into force the new provisions of the Act that set out the conditions the Director-General may impose on an AWEC (refer section 45);
- bring into effect the new provisions of the Act which provide that failure to comply with any relevant regulations made under the Act is sufficient grounds on which the Director-General may refuse to issue an AWEC, or revoke or amend an AWEC that has already been issued (refer section 46);
- repeal section 41 of the Act 'Guidelines for issue of animal welfare export certificates'.

4.2 PROPOSED REGULATIONS TO PLACE THE CURRENT CONDITIONAL EXPORT PROHIBITION ON LIVESTOCK FOR SLAUGHTER UNDER THE JURISDICTION OF THE ANIMAL WELFARE ACT

The Customs Export Prohibition (Livestock for Slaughter) Order 2013 (CEPO) prohibits the export of cattle, deer, goats and sheep (collectively referred to as livestock) for slaughter, except with the consent of the Director-General of MPI and subject to any conditions he or she specifies. The CEPO was issued under the Customs and Excise Act 1996.

The CEPO does not prohibit exports of livestock for other purposes, such as breeding. Livestock exporters are required to provide a legal declaration as to the purpose (e.g. slaughter, breeding, or other) of an intended export.

The CEPO was first issued in 2007 following a review of New Zealand's policy on the export of livestock for slaughter. The Government considered that tighter controls on the export of livestock for slaughter were necessary and in the public interest, as this trade could potentially generate significant public concern and international consumer reaction.

In 2007, the policy could not be implemented under the Animal Welfare Act, as the Act did not allow the treatment of New Zealand livestock in an importing country to be taken into account when considering an application for export. The use of a CEPO was intended as a temporary measure until the Animal Welfare Act could be amended.

CEPOs expire after three years, unless revoked or extended for a further period of up to three years. The CEPO was therefore extended in 2010 and in 2013. The current CEPO expires on 20 December 2016.

Since the CEPO was put in place, Government policy on the issue of exporting livestock for slaughter has not changed and there have been no formal applications to export livestock for slaughter.

The Act has now been amended to allow regulations to be made to impose prohibitions on specified types of export and to allow post-arrival conditions in an importing country to be taken into account when considering an application for export.

The proposal to place the current conditional export prohibition on livestock exports for slaughter under the Animal Welfare Act, rather than in its current form of a CEPO under the Customs and Excise Act, was publically consulted on and agreed to during the development and passage of the Animal Welfare Amendment Bill.

The proposal would consolidate the regulatory framework by ensuring that matters relating to animal welfare are considered under the umbrella of the Animal Welfare Act. It will also strengthen the policy because it will no longer need to be reconfirmed every three years, as required by the Customs and Excise Act.

It is therefore proposed that the current conditional prohibition on livestock exports for slaughter (i.e. that the export of cattle, deer, goats and sheep for slaughter be prohibited, except with the consent of the Director-General of MPI and subject to any conditions he or she specifies) is prescribed by regulation under the Animal Welfare Act, on the expiry of the current CEPO.

4.2.1 Proposed offences and penalties associated with the conditional prohibition on livestock exports for slaughter

Regulations prescribing offences in relation to non-compliance with regulations can be made under section 183(1) (g) of the Act. It is proposed that an offence be prescribed in regulations for failing to comply with the requirement to obtain the prior approval of the Director-General of MPI to export livestock for slaughter.

The maximum penalty associated with a regulatory offence, as set out in the Act², is upon conviction a fine not exceeding:

- i. \$5,000 in the case of an individual,
- ii. \$25,000 in the case of a body corporate.

It is proposed that the maximum penalty for failing to obtain the prior approval of the Director-General of MPI to export livestock for slaughter be prescribed at this level.

4.2.2 Existing offences and penalties associated with the conditional prohibition on livestock exports for slaughter

The Act already provides an offence if a person exports an animal other than under the authority and in accordance with the conditions of an Animal Welfare Export Certificate (except where exempted by Gazette notice or where the animal is exported under Department of Conservation legislation). The penalty for this offence is upon conviction a fine not exceeding:

- i. \$25,000 in the case of an individual or imprisonment for a term not exceeding 6 months, or to both; or
- ii. \$125,000 in the case of a body corporate.

² Section 183(1)(i)

Question 1: The conditional prohibition on the export of livestock for slaughter will be moved into regulations under the Animal Welfare Act 1999. Do you have any comment on this transition occurring in the second half of 2016?

Question 2: Do you have any comment on the proposed regulatory offence and penalty for non-compliance with the conditional prohibition on the export of livestock for slaughter?

4.3 PROPOSALS TO BRING INTO FORCE NEW PROVISIONS OF THE ANIMAL WELFARE ACT 1999 AND REPEAL SECTION 41

4.3.1 Repeal section 41 - Guidelines for issue of animal welfare export certificates

Section 41 of the Act relating to the issue of guidelines will be repealed 5 years after the date on which the Amendment Act received Royal Assent (i.e. 10 May 2020) or on an earlier date appointed by Order in Council.

Section 41 is to be repealed because a legislative provision to allow MPI to create and consult on guidelines is not necessary. Repealing this section will provide administrative clarity, however it will not affect current practice. MPI can and will continue to work with industry and consult stakeholders on the development of such guidance material.

It is proposed that this section be repealed by Order in Council to provide more clarity for stakeholders around the legal status of the guidelines by late 2016, rather than waiting until 2020.

Question 3: Do you have any comment on the proposal to repeal the legislative provision “Guidelines for issue of animal welfare export certificates” by late 2016? (Refer section 41).

4.3.2 Amendment of section 43 - Consideration of application

Section 43 has been amended to require the Director-General when assessing an application for export to consider:

- any live animal export regulations
- New Zealand’s reputation as a responsible exporter of animals and products made from animals.

Section 43 has also been amended to allow the Director-General when assessing an application for export to consider:

- the post-arrival conditions for the management of animals in the importing country
- the manner in which the welfare of any animals previously exported by the applicant was attended to during –
 - the 30-day period commencing on the date of their arrival in the importing country; or
 - any lesser period after their arrival that the Director-General thinks fit.

New Zealand’s international reputation as a responsible exporter of animals and animal products is essential to maximise trading opportunities. Animal welfare

incidents during export and post-arrival could damage New Zealand's good animal welfare reputation and affect our access to international export markets.

The amendments to section 43 enhance the Director-General's ability to protect New Zealand's good reputation from risks associated with the export of live animals by explicitly providing that New Zealand's reputation be a consideration in deciding whether to grant an AWEC. This amendment also enables the current policy on livestock exports for slaughter, which pose particular risks to New Zealand's reputation, to be implemented under the Animal Welfare Act, by regulation.

The changes to section 43 of the Act will come into force 5 years after the date on which the Amendment Act received Royal Assent (i.e. 10 May 2020) or can be brought into force earlier on a date appointed by Order in Council.

To ensure the benefits of the amendments to section 43 are realised as soon as possible, it is proposed that these amendments be brought into force by late 2016 through an Order in Council (i.e. by commencement order).

Question 4: Do you have any comment on the proposal to bring into force, by late 2016, the new provisions of the Act that expand the matters the Director-General of MPI must or may consider when assessing an application for export? (Refer section 43).

4.3.3 Amendment of section 45 - Conditions

Section 45 of the Act has been amended to insert two more conditions the Director-General may impose on an AWEC:

- a condition requiring an exporter to provide a report on the way in which the animals were managed during their journey and to provide any specified information that the Director-General considers relevant
- a condition requiring an exporter to provide a report on the welfare of the animals and to provide any specified information that the Director-General considers relevant, for –
 - i. the 30-day period commencing on the date of their arrival in the importing country; or
 - ii. any lesser period after their arrival that the Director-General thinks fit.

Information provided in these reports will assist MPI in assessing future applications. For example, the information may be used to assess the competence of exporters and inform the development and improvement of guidance material on the export of animals.

Section 45 amendments will come into force 5 years after the date on which the Amendment Act received Royal Assent (i.e. 10 May 2020) or can be brought into force earlier on a date appointed by Order in Council.

To ensure the benefits of the section 45 amendments are realised as soon as possible, it is proposed that these amendments be brought into force by late 2016 through an Order in Council (i.e. by commencement order).

Question 5: Do you have any comment on the proposal to bring into force, by late 2016, the new provisions of the Act that allow the Director-General of

MPI to impose conditions on an animal welfare export certificate?
(Refer section 45)

4.3.4 Amendment of section 46 - Issue of animal welfare export certificate

A new provision has been inserted into section 46 of the Act that provides:

- the failure to comply with any relevant regulations made under this Act is a sufficient ground on which the Director-General may:
 - refuse to issue a certificate; or
 - revoke or amend any certificate that has already been issued.

This new provision strengthens the Director-General's ability to enforce compliance with regulations.

This amendment will come into force 5 years after the date on which the Amendment Act received Royal Assent (i.e. 10 May 2020) or can be brought into force earlier on a date appointed by Order in Council.

To ensure the sanctions available in the Act for non-compliance with regulations are brought into effect with the live animal export regulations, it is proposed that the amendment to section 46 be brought into force by late 2016 through an Order in Council (i.e. by commencement order).

Question 6: Do you have any comment on the proposal to bring into force, by late 2016, the new provision that allows the Director-General of MPI to refuse to issue an animal welfare export certificate, or revoke or amend a certificate? (Refer section 46)

5 Consultation questions

1. The conditional prohibition on the export of livestock for slaughter will be moved into regulations under the Animal Welfare Act 1999. Do you have any comment on this transition occurring in the second half of 2016?
2. Do you have any comment on the proposed regulatory offence and penalty for non-compliance with the conditional prohibition on the export of livestock for slaughter?
3. Do you have any comment on the proposal to repeal the legislative provision "Guidelines for issue of animal welfare export certificates" by late 2016? (Refer section 41).
4. Do you have any comment on the proposal to bring into force, by late 2016, the new provisions of the Act that expand the matters the Director-General of MPI must or may consider when assessing an application for export? (Refer section 43).
5. Do you have any comment on the proposal to bring into force, by late 2016, the new provisions of the Act that allow the Director-General of MPI to impose conditions on an animal welfare export certificate? (Refer section 45).
6. Do you have any comment on the proposal to bring into force, by late 2016, the new provision that allows the Director-General of MPI to refuse to issue an animal welfare export certificate, or revoke or amend a certificate? (Refer section 46).

6 Next steps

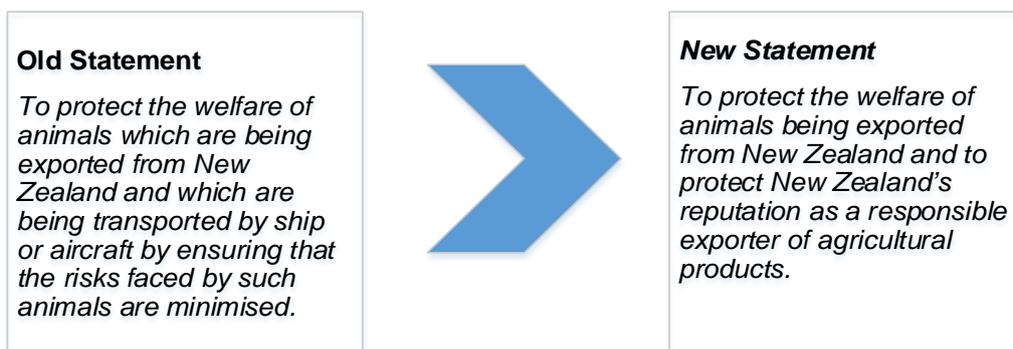
After consultation MPI will analyse submissions, produce a summary, and make the summary available on our website www.mpi.govt.nz

We will consider all submissions when we develop final proposals for Government. If the Government approves the final proposals it is anticipated that the regulations will be in force by December 2016.

Appendix A: Changes to the Animal Welfare Act 1999

Changes to the live animal export provisions in the Act include:

- A new purpose statement for Part 3 (Animal exports) to explicitly include the protection of New Zealand's reputation as a responsible exporter of animals and animal products.



- The addition of provisions that:
 - provide that the Director-General of the Ministry for Primary Industries (MPI) must have regard to regulations and New Zealand's reputation when considering an application for an Animal Welfare Export Certificate (AWEC) (Section 43).
 - allow the Director-General of MPI, when considering an application for an AWEC, to have regard to the post-arrival conditions for the management of animals, and the manner in which the welfare of animals that have previously been exported by the AWEC applicant was attended to up to 30 days after their arrival (Section 43).
 - provide that the Director-General may impose on an AWEC conditions requiring the exporter to provide a report on the way animals were managed during the journey, and requiring an exporter to report on the welfare of animals exported under the AWEC for up to 30 days after arrival (Section 45).
 - allow the Director-General to refuse to issue an AWEC, or revoke or amend an already issued AWEC, if any relevant regulations are not complied with (Section 46).
- Revocation of the provision to publish guidelines for the issue of animal welfare export certificates (Section 41 refers).
- The insertion of a new power to make regulations relating to the exportation of animals (Section 183(C)).

The Governor-General may, on the recommendation of the Minister, make regulations prescribing requirements and other matters relating to the

exportation of animals. These may relate to (but are not limited to) the following:

- (a) the species, age, number, and fitness of animals;
- (b) the duration and date of journeys;
- (c) the transport vehicles and associated facilities (such as loading and unloading equipment);
- (d) the purpose of the exportation;
- (e) pre-conditions required to be satisfied before travel;
- (f) the people accompanying the animals;
- (g) pre-loading facilities;
- (h) reporting and independent monitoring.

Regulations may prohibit, either absolutely or conditionally, any specified type of exportation of animals.