

2014

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

Live Animal Export Prohibition (Ending Cruelty) Bill 2014

EXPLANATORY MEMORANDUM

Circulated by authority of
Andrew Wilkie MP

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Live Animal Export Prohibition (Ending Cruelty) Bill 2014

This bill is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Bill

This is a Bill to introduce a ban on the export of live animals for slaughter. The Bill proposes that by 2017 Australia will cease the practice of exporting livestock overseas for slaughter in foreign abattoirs, with a phased reduction from the time the Bill receives Royal Assent to the date the practice ends on 1 July 2017. This is in response to the continued failure of Australian monitoring systems and in particular the Exporter Supply Chain Assurance System (ESCAS). The slaughter of Australian livestock in many situations is nothing more than animal cruelty and Australia must accept responsibly for enabling the practice to continue.

Human rights implications

This Bill engages with Australia's responsibility to provide "policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual", as described in Article 6 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). It has been argued by some that the prevention of live exports may negatively affect the business of farmers and exporters, but argued by others that keeping livestock in Australia in fact delivers a net benefit to the agricultural sector. The evidence suggests, however, that agricultural workers are more likely to benefit from keeping slaughtering procedures within Australia. Not only that, but the Bill provides a transition period so that individuals can adapt to the change and mitigate the loss, if any.

It should also be noted that one of the guiding principles of the ICESCR contained in Article 4 allows the government to impose limitations on the exercise of the rights agreed to but "only in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society".

Conclusion

This Bill is compatible with human rights because, as far as it engages with the right to productive employment, its effect enhances the protection of that right. Importantly, even in the event that there may be some limited effect on the employment of agricultural workers, the government is entitled to limit the right to a reasonable degree and this Bill is reasonable given the impact of the current practice on the Australian people.

Mr Andrew Wilkie MP, Member for Denison

Live Animal Export Prohibition (Ending Cruelty) Bill 2014

Clause 1: Short Title

1. This clause is a formal provision and specifies the short title of the Bill, once enacted, as the *Live Animal Export Prohibition (Ending Cruelty) Bill 2014*.

Clause 2: Commencement

2. This clause provides for the commencement of all Sections of the Act the day the Act receives the Royal Assent

Schedule 1 – Amendments

Australian Meat and Live-stock Industry Act 1997

Item 1: Section 3, after definition of *live-stock*

1. Item 1 inserts a definition of 'live-stock for slaughter' into the definitions listed in the Act.

Item 2: After subsection 10(3)

2. Item 2 inserts a subsection in Item 10 of the Act, which notes that export licenses granted under the Act do not allow for the export of live-stock for slaughter after 1 July 2017. This item sets an end-date on the export of live-animals for slaughter, which is supported by Item 5 of this Bill, which amends the *Export Control Act 1982* to prohibit the export of live-stock for slaughter after 1 July 2017.

Item 3: After section 16

3. Item 3 inserts a section 16A into the Act to set out additional conditions which apply in relation to a licence for export of live animals for slaughter. These conditions ensure that an export licence holder must take all reasonable efforts to ensure that livestock are treated in accordance to the International Office of Epizootics (IOE) guidelines from the relevant sections of the current edition of the *Terrestrial Animal Health Code*, as defined in Item 5 of this Bill. This item also states that if a live-stock export licence holder becomes aware that live-stock exported under their licence have not been treated in accordance to these guidelines, they must notify the Secretary within 14 days of becoming aware of the breaches.

Export Control Act 1982

Item 4: Part IIB – Export of live-stock for slaughter

Part IIB Clause 9N

4. Item 5 inserts a Part 2B into the Act with provisions to impose regulations on the export of live-stock for slaughter between the commencement date and 1 July 2017; provide for transitional exemptions to be granted in certain circumstances where

- live-stock export contracts existed before the commencement date; and ban the export of live-stock for slaughter unconditionally after 1 July 2017.
5. Subclause 1 ensures that the conditions in Clause 9N only apply until a full ban comes into effect on 1 July 2017.
 6. Subclause 2 declares that live-stock for slaughter is to be considered *prescribed goods* as allowed for in Item 4.
 7. Subclauses 3 and 4 prohibit the export of live-stock for slaughter unless the Secretary is satisfied that the live-stock will be treated satisfactorily or the person proposing the export of the live-stock for slaughter has the grounds for a transitional exemption.
 8. Subclauses 5 and 6 detail the grounds under which the Secretary may be satisfied that the live-stock will be treated satisfactorily. Subclause 5 details that the live-stock must be kept in holding pens that comply with the holding standards as defined in subclause 8; transported, unloaded, kept in lairage and slaughtered in accordance with the OIE Guidelines as defined in subclause 8; and stunned immediately prior to being slaughtered. Subclause 6 states that the Secretary can take into account any issues they may consider relevant when forming a view as to whether exported live-stock will be treated satisfactorily, including legislative and regulatory conditions in the country of export, and any known history of exports to the country of export.
 9. Subclause 7 details transitional exemptions that may be granted where a contract for the export of live-stock for slaughter existed prior to the commencement date with the physical export to take place after the commencement date.
 10. Under paragraph 7(a), a person who proposes to export live-stock for slaughter within 3 months of the commencement day may be granted a transitional exemption from their requirement to satisfy the Secretary that the live-stock they propose to export for slaughter will be treated satisfactorily if they would be in breach of a contract entered into prior to the commencement day.
 11. Under paragraph 7(b), a person who proposes to export live-stock for slaughter between 3 and 6 months of the commencement day may be granted a transitional exemption from their requirement to satisfy the Secretary that the live-stock they propose to export for slaughter will be treated satisfactorily if they would be in breach of a contract entered into prior to the commencement day; has made reasonable attempts to renegotiate their contract to avoid any breach of contract; and has made reasonable attempts to ensure that the live-stock would be treated satisfactorily.
 12. Subclause 8 inserts into the Act definitions for ***commencement day, live-stock for slaughter, Holding Standards*** and ***OIE Guidelines***.

Part IIB Clause 9P

13. Clause 9P places a total and unconditional ban on the export of live-stock for slaughter from 1 July 2017.