

# **FUR FARMING (PROHIBITION) ACT 2000**

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## **EXPLANATORY NOTES**

### **INTRODUCTION**

1. These explanatory notes relate to the Fur Farming (Prohibition) Act 2000, which received Royal Assent on 23rd November 2000. They have been prepared by the Ministry of Agriculture, Fisheries and Food ("the Ministry") in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.
2. The notes need to be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section or part of a section does not seem to require any explanation or comment, none is given.

### **BACKGROUND**

3. On 5 August 1997 the Government issued a consultative letter seeking comments on how to prohibit fur farming. A copy of the letter is deposited in the library of the House. The consultation period was six weeks. The majority of responses were in favour of prohibiting fur farming. The British Fur Trade Association, which represents all aspects of the fur farming industry, the Fur Breeders Association of the UK and the International Fur Traders Association were opposed to the introduction of any form of ban on fur farming.
4. The Parliamentary Secretary to the Ministry (Mr Elliot Morley) announced in the House of Commons on 30 July 1998 (Hansard columns 511-512) that it was the Government's firm intention to end fur farming in this country, that primary legislation would be required and that the Government would be seeking the most appropriate route by which to achieve that.
5. At present, the only animals farmed solely or primarily for their fur in England and Wales are mink. The farming of mink requires a licence from the Ministry by virtue of the Mink Keeping Order 1997 (S.I. 1997/3002) made under the Destructive Imported Animals Act 1932. The 1997 Order ceases to have effect on 1st January 2001; it is intended that its provisions will be continued by the Mink Keeping (England) Order 2000 in England and by the Mink Keeping (Wales) Order 2000 in Wales. There are currently 13 licensed mink farms in England and none in Wales. The farming of other species, such as arctic fox, does not

currently require a licence. However, there are currently no known fur farms farming any such other species.

### **THE ACT**

6. The Act's main purpose is to prohibit fur farming.
7. The Act:

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- makes it a criminal offence, punishable on summary conviction by a fine not exceeding £20,000, to keep animals solely or primarily for slaughter for the value of their fur or for breeding progeny for such slaughter;
  - provides a winding-down period extending at least until the end of 2002;
  - requires the Minister to make a scheme providing for compensation for certain categories of loss.
8. The Act has seven sections.

## **COMMENTARY ON SECTIONS**

### ***Section 1: Offences***

9. *Subsection (1)* creates a primary offence of keeping animals solely or primarily for slaughter for the value of their fur or for breeding progeny for such slaughter. The offence can be committed by a company or a natural person. It is immaterial whether the slaughter will be carried out by the keeper of the animals or by another person. A person who keeps animals partly for slaughter for the value of their fur and partly for another purpose will only be guilty of the offence if the former is the primary purpose for which he keeps the animals. The primary meaning of "value" in this context is commercial value, but the term is sufficiently wide to include the value of the fur to an individual who has no intention to sell it.
10. *Subsection (2)* creates a secondary offence of knowingly causing or permitting another person to keep animals solely or primarily for slaughter for the value of their fur or for breeding progeny for such slaughter. Again, the offence can be committed by a company or a natural person. A person is only guilty of this offence if he knows not only that the animals are being kept but also that the sole or primary purpose of the keeping is as described above. It is anticipated that there will be relatively few cases where a person is guilty of an offence under subsection (2). However, a director of an overseas company might have caused the company to commit an offence under subsection (1). It is also conceivable that a person might knowingly cause or permit the keeping of animals for the prohibited purpose without having any clear relationship of agency with the person who physically keeps the animals. An
- example of a person who might be guilty of the offence of permitting is a person who grants a tenancy of land for the purpose of enabling the tenant to carry on a fur farming business.
11. *Subsection (3)* makes it clear that, for the purposes of both the primary and the secondary offence, the necessary purpose will be present if the ultimate purpose for which the animals are kept is slaughter for the value of their fur, notwithstanding that the keeper may intend to sell the animals with a view to their ultimate slaughter rather than slaughter them while they are in his ownership or possession.
12. *Subsection (4)* provides that both the primary and the secondary offence are summary offences, for which the maximum penalty is £20,000.

### ***Section 2: Forfeiture orders***

13. This section gives the court power to make an order for the forfeiture and destruction or other disposal of the animals in the event that a person is convicted of either the primary or the secondary offence under section 1. In both cases the forfeiture order relates to any animals of a particular description specified in the order which, at the time the order is made or at any time thereafter until the order is carried out, are kept on the premises by the person convicted (in the case of the primary offence) or (in the case of the secondary offence) by the person who has been caused or permitted to keep the animals in question.

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14. *Subsection (5)* permits a person claiming to have an interest in the animals to apply to the court for the purpose of resisting the making of a forfeiture order.

### ***Section 3: Effect of forfeiture orders***

15. This section deals with the effect of a forfeiture order, and provides a right of appeal (to the Crown Court) which is available to any person claiming to have an interest in the animals which are the subject of a forfeiture order. Although the forfeiture order could take effect immediately on being made, so as to deprive any person of his rights in the animals kept at the date of the order, the destruction or other disposal of the animals pursuant to the forfeiture order may be deferred or other appropriate provision may be made pending the making and determination of an appeal or application relevant to the order.
16. A person appointed by the court to carry out a forfeiture order will be acting as an agent of the court.

### ***Section 4: Powers of entry***

17. This section confers a power of entry and inspection, in order to enable the gathering of evidence, and a power to enter premises to carry out a forfeiture order.
18. *Subsection (5)* creates an offence of intentionally obstructing or delaying any person in the exercise of either power of entry. This again is a summary offence for which the maximum penalty is a fine not exceeding level 3 on the standard scale (currently £1000) (*subsection (6)*).

### ***Section 5: Compensation for existing businesses***

19. This section imposes a duty on the Minister of Agriculture, Fisheries and Food ("the Minister"), and enables the National Assembly for Wales by order to make a scheme for paying compensation to persons who incur income and non-income losses as a result of discontinuing fur farming businesses because of the enactment or coming into force of the prohibition in section 1. *Subsection (1)* makes it clear that the compensation scheme may provide for compensation to be payable to such persons whether or not they are still carrying on their business at the date that the prohibition comes into force.

### ***Section 6: Interpretation***

20. This section provides that the phrase "*appropriate authority*" (for the purpose of the power to authorise a person to exercise the power of entry in section 4(1), and for the purpose of the power to make a compensation scheme in section 5) means, in relation to England, the Minister for Agriculture, Fisheries and Food, and, in relation to Wales, the National Assembly for Wales.

### ***Section 7: Short title, commencement and extent***

21. *Subsection (2)* provides for the provisions relating to the prohibitions in section 1(1) and (2), the power to make forfeiture orders in section 2(1) and (2), the effect of such orders (section 3) and the powers of entry in section 4(1) and (2) to come into force on a date to be appointed by commencement order, which may not be before 1 January 2003. The purpose of this delayed commencement is to give fur farmers an opportunity to adjust their affairs and wind down their businesses in advance of the date that those businesses become prohibited. In particular, it provides an opportunity to slaughter any existing stocks of animals, to give notice to employees, to make arrangements for future employment and the future use of the land on which animals are currently kept and to avoid incurring any new capital expenditure (other than any which is incurred for the purpose of complying with any statutory obligation) in the period of at least 2 years before the earliest date on which the prohibitions may come into force.

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22. *Subsection (3)* provides for the power to make a compensation scheme to come into force two months after the Act receives Royal Assent. The power can be exercised so as to enable compensation to be paid to persons who cease to carry on a fur farming business in advance of the date on which sections 1 to 4 are brought into force.

### COMMENCEMENT

23. Therefore, sections 1 to 4 will come into force on a date to be appointed by commencement order, which may not be before 1st January 2003. The power to make a compensation scheme will come into force two months after the Act receives Royal Assent.

### HANSARD REFERENCES

The following table sets out the dates and Hansard references for each stage of this Act's passage through Parliament.

Stage	Date	Hansard reference
<b>House of Commons</b>		
Introduction	22 November 1999	Vol 339 Col 359
Second Reading	15 May 2000	Vol 350 Cols 40-77
Committee	23 May and 6 June 2000	Hansard Standing Committee E
Report and Third Reading	28 June 2000	Vol 352 Cols 968-1016
<b>House of Lords</b>		
Introduction	29 June 2000	Vol 614 Col 1146
Second Reading	19 July 2000	Vol 615 Cols 1130-1156
Committee	17 October 2000	Hansard Grand Committee
Report	6 November 2000	Vol 618 Cols 1238-1243
Third Reading	13 November 2000	Vol 619 Cols 14-18 Vol 619 Cols 14-18
<b>House of Commons</b>		
Consideration of Lords' amendments	22 November 2000	Vol 357 Cols 334-366

<b>Royal Assent – 23 November 2000</b>	House of Lords Hansard Vol 619 Col 937
	House of Commons Hansard Vol 357 Col 481