

Fur farming 24 05 2021 Draft

Prohibition on Fur Farming

Animal Health and Welfare (Amendment and Miscellaneous Provisions) Bill 2021

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Acts referred to

Animal Health and Welfare Act 2013	2013, No. 15
Milk (Miscellaneous Provisions) Act 1979	1979, No. 24
Musk Rats Act 1933	1933, No. 16

Animal Health and Welfare (Fur farming) Bill 2020

(This Bill provides for a ban on fur farming and providing for payments to those fur farmers lawfully involved in fur farming prior to the introduction of the ban)

Long title; prerogative of OPC.

Citation and commencement

1. This Act may be cited as the Animal Health and Welfare (Amendment and Miscellaneous Provisions) Act 2021.

Explanatory Note:

This provision, in standard form, provides the short title of the Bill.

Repeal of Part 12 of the Animal Health and Welfare Act 2013

2. Part 12 of the Animal Health and Welfare Act 2013 is repealed.

Explanatory Note:

This provision repeals the current Part 12 of the Animal Health and Welfare Act 2013. This Part has never been commenced.

Insertion of Part 12A of Animal Health and Welfare Act 2013

3. The Animal Health and Welfare Act 2013 is amended by the insertion after Part 12 of the following:-

“Part 12A

Definitions (Part 12A)

65. In this Part –

“animal to which this Part applies” means an animal mentioned in section 66 (1) or specified in an Order under section 66 (2);

“fur farming” means breeding, rearing or keeping animals for the value of, or the manufacture of products from, their fur or skin;

Application

66 (1) This Part applies to cats, chinchillas, dogs, foxes, mink and weasels (including stoats).

(2) The Minister may, by order, apply this Part to an animal or class of animal specified in the order where in the opinion of the Minister such animal is to be used primarily for fur farming.

Prohibition on fur farms

67. (1) A person shall not engage in fur farming.

(2) A person shall not have an animal to which this Part applies in his or her possession or under his or her control for the purpose of engaging in fur farming.

(3) A person who contravenes subsection (1) or subsection (2) commits an offence.

Compensation

68 (1) The Minister may, subject to this Part, pay compensation, the amount of which is to be determined by him in accordance with subsection (3), to a person –

(a) who immediately before the passing of the Animal Health and Welfare (Amendment and Miscellaneous Provisions) Act 2021 was engaged in fur farming in accordance with a licence under the Musk Rats Act 1933, and

(b) who has, no later than 12 months from the date of commencement of this Part submitted an application to the Minister in the behalf in accordance with subsection (2).

(2) An application for compensation under this Part shall be in such form and contain such information as the Minister may determine.

(3) The Minister may pay compensation to a person who is entitled to make an application under this section-

(a) of an amount that represents the difference between the net book value of the specified trading assets of the fur farming business of an applicant and realised value of the specified trading assets of the fur farming business of an applicant following their sale.

I. In the event that a specified trading asset of a business cannot be sold despite all reasonable efforts to complete a sale having been undertaken by an applicant the person nominated by the Minister under subsection 7 to determine the amount of compensation payable to an applicant under this Part or any assistant appointed by that person pursuant to subsection 9(b) shall determine by estimate the unrealised value of the trading asset concerned.

II. Such estimate may only be determined following a physical inspection of the trading asset and shall not exceed the net book value of the specific asset concerned.

- (b) where the unrealised profits of the fur farming business of an applicant exceed the net book value of the specified trading assets, of an additional amount to that provided for in accordance with paragraph (a) equating to the difference between unrealised profits and net book value.
- (c) of an amount no greater than statutory redundancy payments, not otherwise recoverable, made as a direct result of the operation of this Part.
- (d) of an amount not exceeding the costs incurred in disposing of breeding animals for the purposes of complying with this Part. The total sum payable to applicants under this paragraph shall not exceed €160 per tonne of carcase material to be disposed of and in addition killing costs of €0.12 and €0.23 per breeding female for materials and labour respectively.
- (e) of an amount for demolition and clean up costs incurred in the removal of buildings used to house mink immediately prior to the effective date.
 - I. Applicants shall only be eligible for reimbursement of demolition and clean up costs under this paragraph where they can satisfy the Minister that they first obtained three independent estimates of cost for the required demolition works.
 - II. Payment under this scheme may only be made in relation to the lowest of the three estimates furnished up to a maximum cost per square meter of €50.
- (f) Payment of a sum to reimburse expenditure on professional fees incurred by an applicant as a result of the coming into operation of this Part. The total sum payable to applicants under this paragraph shall not exceed €30,000.

(4) The demolition and clean up costs to which subsection (3) (e) applies are the safe removal of roofing, walls and flooring and the restoration of the underlying area of ground to a brown field site.

(5) Payment may not be made to reimburse costs associated with demolition and clean up costs incurred in relation to a building or other structure which, in the opinion of the Minister, has been or may be used for a purpose unrelated to the farming of mink.

(6) The Minister may postpone consideration of an application for payment of compensation under this Part pending the institution or determination of a prosecution for an offence under section 70.

(7) An application for compensation under this Part shall be determined in accordance with this Part by a person nominated by the Minister.

(8) Where the Minister proposes to nominate a person under subsection (7), or the President of Chartered Accountants Ireland proposes to nominate a person under subsection (11), the Minister or the President, as the case may be, shall advise that person of the proposal and if that person indicates that he or she may have a conflict of interest, the Minister or President shall not make the nomination.

(9) A person nominated under subsection (7) or subsection (11)

(a) Shall be independent, and

(b) may appoint such persons as he or she considers necessary to assist,

in the exercise of his or her functions under this Part.

(10) A person nominated under subsection (7) or (11) or appointed under subsection (9) (b) shall be paid such remuneration as the Minister, with the consent of the Minister for Public Expenditure and Reform, decides.

(11) Where a person nominated under subsection (7) determines an application, the applicant may seek a second determination by a person nominated by the President of Chartered Accountants Ireland.

(12) An application for a second determination shall be made to the Minister no later than 21 days from the date of the first determination and shall be in such form and contain such information as the Minister may determine.

(13) Upon receipt of an application for a second determination the Minister shall direct the President of Chartered Accountants Ireland to nominate a person for the purpose of carrying out a second assessment and determination of the applicants compensation claim.

(14) The Minister shall forward the application for a second determination to the person nominated by the President of Chartered Accountants Ireland to assess and determine the claim.

(15) A determination made by a person nominated under subsection (11) is final save that it may be appealed to the High Court on a point of law.

(16) In this section-

“net book value” in relation to a specified asset is the closing valuation of an asset or assets of a particular class or description as set out in the statutory balance sheet relating to the financial year immediately preceding 1 January 2021 with any adjustment that are, in the opinion of the Minister, reasonable to take account of subsequent events occurring after such filing and no later than the effective date;

“specified trading asset” means mink, equipment, plant and other machinery, buildings and other structures, or fixtures and fittings used for the purpose of fur farming prior to the effective date;

“unrealised profits” means the average annual trading earnings before interest, tax, depreciation and amortization of the 5 years immediately preceding 1 January 2021, multiplied by a factor of 5.

Disposal of animals

69. (1) Without prejudice to section 23 (4), where an authorised officer seizes and detains an animal to which this Part relates under section 38, the officer shall, as soon as may be afterwards apply to the judge of the District Court for an order to dispose of the animal and the judge shall, unless there is good reason for doing so, grant the application.

(2) An authorised officer shall not make an application under this section unless he or she has served a notice on the person who appears to be in possession or control of the animal immediately prior to it being seized, or, if that person can not be readily identified, by affixing the notice on or adjacent to the land or premises where the animal was situated immediately prior to it being seized.

(3) An order under this section shall be expressed and have effect to direct the Minister to dispose of the animal to which the order relates for the purposes of this section in a manner that the Minister considers appropriate.

Offences

70. A person who commits an offence under this Part is liable on conviction on indictment to a fine not exceeding €250,000 or to a term of imprisonment not exceeding 5 years, or to both.”.

Explanatory Note:

This Provision inserts a new Part 12A into the 2013 Act. This new Part 12A contains a definitions section which will apply to the new Part. This is followed by an application section which clarifies that the new Part 12A applies to cats, chinchillas, dogs, foxes, mink and weasels and that the Minister may, by order, extend this to an animal or class of animal specified in the order where in the opinion of the Minister such animal is to be used primarily for fur farming. Part 12A also includes a provision that prohibits fur farming, the possession of animals for the purpose of engaging in fur farming and provides that contravention is an offence. Part 12 A also contains provisions that will govern the amount of compensation that will be payable to existing fur farmers pursuant to which payments may be made, for the value of company assets, unrealised profits, demolition and clean-up costs, redundancy payments and professional fees. The loss Categories are based on advice from an independent consultant’s report

(prepared by Grant Thornton) and reflect the actual losses and costs of this prohibition to each of the three extant fur farm operators. The operators concerned have been consulted and the draft loss categories proposed have been made available to the fur farmers who have availed of the opportunity to make observations. Provision is also made for the administrative machinery necessary for a system of compensation to operate. Provision is also made in this new Part 12A for the disposal of animals used in fur farming after that activity is made unlawful. The power to dispose of animals seized under is currently limited under the Animal Health and Welfare Act to situations where disposal is necessary on welfare or disease grounds. Neither of these two contingencies may exist where, post prohibition, it is a fur producing animal that has been seized and detained. For this reason, a new power to dispose of the animals is deemed necessary and is being proposed for that specific purpose. Finally, an offence under Part 12A is indictable and this Head provides for penalties in line with other indictable offences under the Animal Health and Welfare Act 2013.

Amendment of Schedule 3 to Animal Health and Welfare Act 2013

4. The Animal Health and Welfare Act 2013 is amended in Schedule 3, by the insertion in paragraph 40 of the words *'including the suspension and revocation'* immediately following the word "granting".

Explanatory Note:

This provision clarifies paragraph 40 of Schedule 3 to the Animal Health and Welfare Act 2013. The inclusion of the additional wording is considered prudent as a result of introducing similar wording in the new paragraph 40A.

Insertion of Paragraph 40A into Schedule 3 to Animal Health and Welfare Act 2013

5. The Animal Health and Welfare Act 2013 is amended in Schedule 3, by the insertion after paragraph 40 of the following:

40A. The granting, (including the suspension and revocation) of licences in respect of the operation of a livestock mart, where the mart holds livestock on its land or premises immediately before or after the sale, supply, auction or brokerage of the livestock”

Explanatory Note:

This provision amends Schedule 3 to the Animal Health and Welfare Act 2013 to remove a doubt as to the *vires* of applying regulations under section 36 to marts.

Repeal

5. The Milk (Miscellaneous Provisions) Act 1979 is repealed.