

The Repeal Bill Does Not Incorporate Article 13 TFEU (the Sentient Beings Article) into UK Law

Three types of EU legislation are currently part of UK law on animal welfare: Directives, Regulations and Article 13 of the Treaty on the Functioning of the EU.

Article 13 recognise animals as “sentient beings” and also requires Governments, in formulating and implementing policies on agriculture, fisheries, transport, research and technological development, to pay “full regard to the welfare requirements of animals”. The full text of Article 13 is set out at the end of this note.

Directives (such as those on the welfare of pigs and hens) are already part of UK law as they were transposed into UK law when they were made. For example, the Welfare of Farmed Animals Regulations transposes all the EU Directives on farm animal welfare into UK law.

EU Regulations (such as those on the welfare of animals during transport and slaughter) are directly applicable in the Member States. This means that, on its entry into force, an EU Regulation automatically becomes part of the national law of each Member State. However, it also means that when the UK leaves the EU, Regulations would automatically cease to be part of UK law. The purpose of the Repeal Bill is to prevent this by incorporating EU Regulations into UK law. This is achieved by Clause 3 (1) of the Repeal Bill which provides that “Direct EU legislation, so far as operative immediately before exit day, forms part of domestic law on and after exit day”.

Clause 3 (2) explains that “direct EU legislation” means “any EU regulation, EU decision or EU tertiary legislation”. There is no reference to any Treaty provision in Clause 3. The effect of this is that Article 13 of the Treaty on the Functioning of the EU is not going to be incorporated into UK law by the Repeal Bill as currently drafted.

Article 13 is the core overarching requirement on animal welfare in EU – and hence at this time in UK – law. We believe that it must be incorporated into UK law. This could be done by a Government amendment at Committee stage of the Repeal Bill. Such an amendment could directly incorporate Article 13 into UK law or it could do so by amending the Animal Welfare Act 2006.

Full text of Article 13 of the Treaty on the Functioning of the EU

“In formulating and implementing the Union’s agriculture, fisheries, transport, internal market, research and technological development and space policies, the Union and the Member States shall, since animals are sentient beings, pay full regard to the welfare requirements of animals, while respecting the legislative or administrative provisions and customs of the Member States relating in particular to religious rites, cultural traditions and regional heritage.”

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