

Recognition of the animal sentience principle in Scotland after Brexit

Summary

Article 13 of the Functioning of the European Union (EU) treaty establishes the principle that animals are sentient and that their welfare must be respected in the development of policy. OneKind is calling for the Scottish Government to commit to maintaining this principle after Brexit, and is asking MSPs to indicate their support for this by signing Motion S5M-08973.

Introduction

In 1997 the UK Government, under its Presidency, convinced the other 14 Member States that the European Treaty needed to recognise that animals were sentient beings not agricultural goods. That, like us, they have feelings and emotions and have the same capacity to feel joy as well as pain and suffering. This protocol, which came into place in 1999, changed the way that animals were regarded, ensuring that future European legislation was not implemented on the basis of the lowest standard of animal welfare but took animal sentience into account. Since this historic moment, over 20 pieces of European legislation on animal welfare have been adopted, including the ban on seal skin imports due to cruelty in the killing of these animals, the ban on the conventional battery cage and the ban on cosmetics testing on animals.

The original Protocol was incorporated into the Lisbon Treaty in 2009 as Article 13 of Title II:

"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."

The EU (Withdrawal) Bill

The UK Government's EU Withdrawal Bill omits any reference to Article 13. Amendment 350 would have amended the Bill so that this important principle would be incorporated in UK law after the UK leaves the European Union. However, it was narrowly rejected in the Committee Stage debate in the House of Commons on the 15th of November.

Maintaining the principle of animal sentience in Scotland

Article 13 provides an essential underpinning for animal protection in the EU and Scotland. The legal principle of animal sentience has been part of EU law for 20 years and its loss would be a significant backward step. It would also send the message that Scotland and the UK see Brexit as an opportunity to weaken animal welfare standards in the pursuit of economic advantage.

Animal welfare is a devolved matter, and there is precedence for establishing overarching principles for animal protection in Scottish law. The Animal Health and Welfare (Scotland) 2006 Act, for example, enshrines the 'five freedoms'. These are internationally recognised welfare requirements.

OneKind is therefore asking that the Scottish Government commit to maintaining the animal sentience principle in Scottish law after Brexit. There are a range of legislative options to deliver this, and we request that the Scottish Government explore these as a matter of urgency given the tight Brexit timetable.

Motion S5M-08973 Protecting Animal Welfare after Brexit

OneKind is calling on MSPs to indicate their support for protecting animal welfare after Brexit and, specifically, for the principle of animal sentience to continue to underpin legislation and policy in Scotland by signing Motion S5M-0873:

That the Parliament is aware that Article 13 of the Treaty on the Functioning of the European Union recognises animals as sentient beings and requires governments in formulating and implementing policies on agriculture, fisheries, transport, research and technological development to pay full regard to their welfare requirements; understands that the European Union Withdrawal Bill omits any reference to this Article and that an amendment to incorporate it into the bill was rejected, and believes that the protection for animals in Scotland provided by Article 13 is essential and that animal sentience must continue to be an underpinning principle of all future legislation affecting animals in Scotland.

Further information

Brexit poses a wide range of challenges and opportunities to animal welfare in Scotland and the UK. These are described in the report, [Brexit - getting the best deal for animals](#), produced by a partnership of 37 animal welfare charities including OneKind.

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