

**FUR FARMING (PROHIBITION)
(NORTHERN IRELAND) ORDER 2002**

S.I. 2002 3151

EXPLANATORY MEMORANDUM

INTRODUCTION

1. The Fur Farming (Prohibition) (Northern Ireland) Order was made on 17 December 2002.

BACKGROUND AND POLICY OBJECTIVES

2. The purpose of the Order is to prohibit the keeping of animals solely or primarily for slaughter for the value of their fur. The Order brings the law into line with that in England and Wales and Scotland.
3. In England and Wales legislation was introduced in November 2000, which banned the keeping of animals solely or primarily for slaughter for the value of their fur. The Fur Farming (Prohibition) Act 2000 received Royal Assent on 23 November 2000. The provisions in relation to the ban on the keeping of animals for slaughter for the value of their fur came into effect on 1 January 2003. The Act also contains provisions for the making of a scheme which would provide compensation for existing businesses. In 2000 there were 13 such businesses in England and Wales. The Scottish Bill prohibiting fur farming received Royal Assent on 11 April 2002 and came into operation by means of a Commencement Order on 1 January 2003. There are no fur farming businesses in Scotland.
4. Although there are no known businesses currently operating in Northern Ireland which keep animals solely or primarily for slaughter for the value of their fur, the Order prevents businesses which could no longer operate in England and Wales from relocating or starting up in Northern Ireland. The Order contains provisions to enable the Department to make a scheme to pay compensation to fur farmers who incur losses as a result of the ban on fur farming. It is not anticipated that it will be necessary to use compensation provisions but these provisions are necessary in order to ensure that the Order is ECHR compliant.

CONSULTATION

6. A consultation paper outlining the Order's proposals was issued on 10 April 2001 to 83 bodies and individuals. In addition a Public Notice about the consultation paper was placed in all the Northern Ireland daily papers and in all the weekly provincial papers. The information was also made available through the Department's website.

OPTIONS CONSIDERED

7. The only means of prohibiting fur farming is by way of primary legislation.

OVERVIEW

8. The Order has 5 main articles. Article 3 creates offences. Article 4 relates to forfeiture orders. Article 5 relates to the effect of forfeiture orders. Article 6 deals with powers of entry and Article 7 makes provision for a scheme to be made to provide compensation for existing businesses.

COMMENTARY ON ARTICLES

Article 3: Offences

Paragraph (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 by a person. It does not matter 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 an offence if the former is the primary purpose for which he keeps the animals.

Paragraph (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. A person is only guilty of an offence if he knows not only that the animals are being kept but also that the sole or primary purpose is as described above. It is not anticipated that there would be many cases where a person would be guilty under paragraph (2) but an example of a person who might be guilty of an 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.

Paragraph (3) makes it clear that, for the purposes of both the primary and 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.

Paragraph (4) provides that both the primary and secondary offence are summary offences, for which the maximum penalty is £20,000.

Article 4: Forfeiture orders

This article 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 Article 3. In both cases the forfeiture order relates to any animals of a particular description specified in the order which, at any 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 caused or permitted to keep the animals in question.

Paragraph (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.

Article 5: Effect of Forfeiture orders

This article deals with the effect of a forfeiture order, and provides a right of appeal (to the court) which is available to any person claiming to have an interest in the animals which are subject of a forfeiture order. Although the forfeiture order could take effect immediately on being made, so as to deprive any person of his right 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 depending the making and determination of an appeal or application relevant to the order.

Article 6: Powers of entry

This article 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.

Paragraph (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) (paragraph (6)).

*This Explanatory Memorandum refers to the Fur Farming
(Prohibition) (Northern Ireland) Order 20023151*

Article 7: Compensation for existing businesses

This article enables the Department of Agriculture and Rural Development by order to make a scheme for paying compensation to persons who incur income losses as a result of discontinuing fur farming businesses. Since there are not thought to be any existing fur farming businesses this provision is not likely to be invoked but is nevertheless included as a precaution and in order to satisfy human rights issues.