

Cabinet Secretary for Rural Affairs and Islands

Mairi Gougeon MSP T: 0300 244 4000

E: scottish.ministers@gov.scot

The Rt Hon George Eustice MP
Secretary of State for Environment, Food and
Rural Affairs
Seacole Building
2 Marsham Street
London
SW1P 4DF

11 April 2022

Dear George,

ANIMAL WELFARE AND CONSERVATION: PROPOSED ANIMALS (IMPORTS, EXPORTS ETC) BILL

I am writing to express my concern surrounding the lack of clarity on the proposals outlined in the draft bill, which would have covered several important animal welfare and conservation issues. Following my letter of the 23 February, I understand that the proposals within the bill may have been subject to further discussion by UK ministers. The Parliamentary question published on 1 April provides some welcome assurance, however, it remains in some doubt what the current intention is regarding the bill.

If the bill, as originally proposed is to be put aside or its scope substantially reduced, it will likely create a significant amount of uncertainty and confusion, ultimately failing to deliver the promises made by the UK Government. These proposals were tabled by the UK Government as demonstrating UK leadership at international level, ensuring comprehensive safeguards to animal welfare were delivered effectively across the UK. Indeed, it was only a few months ago in your letter of 31 December 2021 that you stated, 'animal welfare is a high priority issue' and that you were keen to work closely with all administrations to 'ensure the United Kingdom can maintain and protect its position as a world leader'.

I would be most grateful if you could address the concerns outlined above and provide clarity on the progression of these important proposals. I am of course open to further discussion and would welcome any opportunities for constructive engagement between our officials to aid delivery of this work.

Yours sincerely,

MAIRI GOUGEON

Cabinet Secretary for Rural Affairs and Islands

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T: 0300 244 4000

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The Rt Hon George Eustice MP
Secretary of State for Environment, Food and Rural
Affairs
Seacole Building
2 Marsham Street
London
SW1P 4DF

23 February 2022

Dear George,

ANIMAL WELFARE AND CONSERVATION: PROPOSED ANIMALS (IMPORTS, EXPORTS ETC) BILL

Thank you for your letter of 31 December 2021 outlining proposals to work together to include Scotland in primary legislation on a number of important animal welfare and conservation issues. The views of the Scottish Ministers on extending the provisions mentioned in your letter to Scotland are as follows.

Trophy Hunting Import Ban

The Scottish Ministers support, in principle, the initiative to regulate to prohibit the import of hunting trophies from species listed on Annex A and B of the UK Wildlife Trade Regulations (retained EU Law version of Council Regulation (EC) No. 338/97 as amended). We also support the inclusion of a power to prescribe other species which will be subject to the trophy hunting import ban, which we are told would be exercised to prescribe species considered to be of global conservation concern but not currently protected under Annex A and B of the UK Wildlife Trade Regulations.

However, we are not currently persuaded that the powers of prescription should rest with the Secretary of State alone. We consider that powers to specify additional animals should only be used by the Secretary of State with the consent of Scottish Ministers, and also be available to be used by Scottish Ministers, as regards controls in Scotland.

Restriction on Sale and Import of Fur

The Scottish Ministers support, in principle, the initiative to prohibit the import and sale in Great Britain of fur to address the public moral objection to any rearing or killing of animals purely for their fur; and that such prohibition could be subject to any exemptions provided for in regulations.

However, we are not currently persuaded that the powers of prescription should rest with the Secretary of State alone. We consider that powers to create exceptions should only be used by the Secretary of State with the consent of Scottish Ministers, and also be available to be used by Scottish Ministers, as regards controls in Scotland.

Restriction on Sale and Import of Foie Gras

The Scottish Ministers support, in principle, the initiative to prohibit the import and sale in Great Britain of foie gras that is produced through the practice of force-feeding and for such a ban to be extended to include Scotland.

We also agree that such prohibitions should be subject to any exemptions created in regulations by the appropriate national authority. In relation to Scotland this would be the Scottish Ministers or the Secretary of State acting with the consent of the Scottish Ministers.

I am therefore pleased to confirm, in principle, my agreement to seek legislative consent in the Scottish Parliament to cover the measure prohibiting the import or sale of foie gras produced through the practice of force-feeding.

Low Welfare Animal Activities

The Scottish Ministers support, in principle, the initiative to introduce a policy to ensure that businesses do not benefit from the advertising or sale of attractions, activities or experiences to tourists involving the unacceptable treatment of animals abroad.

We also agree that regulation in this regard should be by the appropriate national authority. In relation to Scotland this would be the Scottish Ministers or the Secretary of State acting with the consent of the Scottish Ministers.

I am therefore pleased to confirm, in principle, my agreement to seek legislative consent in the Scottish Parliament to cover the measure prohibiting the advertising or sale of attractions, activities or experiences to tourists involving the unacceptable treatment of animals abroad.

Ban on the Import or Export of Shark Fins

The Scottish Ministers support, in principle, the extension to Scotland of a ban on the import and export of shark fins, other than where a fin is naturally attached to a substantially intact shark carcass or where an exemption certificate (for the purposes of conservation) has been issued by the Secretary of State.

However I note that provision is made for Secretary of State executive functions, including regulation-making power. If the shark fin provisions were to be extended to Scotland, these functions should only be used by the Secretary of State with the consent of Scottish Ministers or lie with the Scottish Ministers as regards Scotland.

Official Control Regulations

The Scottish Ministers support, in principle, the introduction of a power to amend legislation to provide that border control teams can operate remote documentary checks on imports of animals and animal products. We consider that this measure will be most effective if applied on a GB-wide basis.

However, these powers should only be used by the Secretary of State with the consent of Scottish Ministers, and be available to be used by Scottish Ministers, as regards controls in Scotland.

Overall, I am happy to support further constructive engagement between our officials to develop the drafting of the Bill to address the points of concern raised above.

I would be grateful if you could inform me of your plans to publicise the Bill proposals and the possible timing of introduction of the Bill in due course. Following recent press coverage about the possible dropping of the proposals regarding the import and sale of fur and foie gras, I would also be grateful if you could confirm your position on this.

I will confirm the Scottish Government's position on the devolution analysis outlined in your letter once the points of concern raised above have been addressed and a Bill is ready for introduction in Westminster, when its terms at that stage can be considered.

Yours sincerely,

MAIRI GOUGEON

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Mairi Gougeon MSP
Cabinet Secretary for Rural Affairs and Islands
Scottish Government
St Andrew's House
Edinburgh EH1 3DG

31 December 2021

Dear Mairi,

ANIMAL WELFARE AND CONSERVATION PROPOSED ANIMALS (IMPORTS, EXPORTS, ETC) BILL

Animal welfare is a high priority issue and one where I am keen to work closely with the Scottish government to ensure that the United Kingdom can maintain and protect its position as a world leader. I have written previously regarding various pieces of animal-related legislation and we are now working towards introducing a further Bill. This Bill will include a number of measures to address concerns around the welfare and conservation of animals overseas. We are hoping to release further details of that Bill shortly, and it is likely that it will contain the below policies.

I understand our officials have been in contact regarding the below proposals, and I am grateful for the constructive manner of those discussions. I am therefore writing to seek your views on extending the following provisions to Scotland.

Trophy hunting import ban

My Department published a response to the call for evidence and consultation on 10th December 2019 announcing a ban on the import of hunting trophies from endangered animals. This set out the proposed measure which will ban the import of species listed on Annex A and B of the UK Wildlife Trade Regulations (retained EU Law version of Council Regulation (EC) No. 338/97 as amended). The policy will also look to include species considered to be of global conservation concern but not currently protected under these regulations. I have been advised that the devolution analysis indicates that this a reserved matter and will therefore not need consent from the Scottish Parliament. It would however be helpful if you could confirm your support for this measure.

Restriction of sale and import of fur

I am grateful that the Scottish Government agreed to Scotland being included in the "Fur Market in Great Britain" Call for Evidence. This received over 29,000 responses, of which over 96% strongly agreed that it is wrong for animals to be killed for the sake of their fur. The Government will therefore take forward a ban on the import and sale of fur. This will include potential for a variety of exemptions to the ban, including for any vintage, second-hand or 'old' fur produced before the ban comes into force and may include other exemptions (e.g. for military or religious uses). Following a recent review of our devolution analysis, we have concluded that this relates to a reserved matter in line with a previous decision relating to regulations on the trade and sale of cat and dog fur. However, it would be helpful if you could confirm your support for this measure.

Restriction of sale and import of foie gras

We will also be introducing a measure that will ban the import and sale of foie gras that is produced through the practice of force feeding. This measure relates to devolved matters and includes powers for Scottish Ministers to make regulations regarding this measure. This use of concurrent powers is dependent on you confirming that you will support the granting of legislative consent. I would therefore be grateful if you could confirm that you are content for this ban to be extended to include Scotland and will support the granting of the necessary legislative consent motion.

Low welfare animal activities

The Government also would like to bring forward a policy to ensure that businesses do not benefit from the advertising or sale of attractions, activities or experiences to tourists involving the unacceptable treatment of animals abroad. For example, animals such as Asian elephants that may be subjected to cruel and brutal training practices to ensure their obedience. The Secretary of State and Scottish Ministers will have concurrent powers to prescribe animal experiences in secondary legislation. This use of concurrent powers is dependent on you confirming that you will support the granting of legislative consent.

Ban on the import and export of shark fins

The Government will also bring forward a ban on the import and export of detached shark fins. This follows the Call for Evidence published in December 2020 seeking views on an English ban on trade in shark fins, that are not naturally attached to the shark carcass. This provision deals with a devolved matter and I would be grateful if you could confirm whether you will support the granting of the necessary legislative consent to enable it to be extended to Scotland.

Official Control Regulations (OCR)

The Government will also be introducing a power to amend the current OCR to ensure that border control teams can continue to operate remote ID and documentary checks on imports of animal related products after the transitional phasing period has ended. This OCR consists of a mix of reserved and devolved matters and includes concurrent powers for Scottish Ministers to make regulations, which means legislative consent will be required. This measure will be effective if it is applied on a GB-wide basis and I would be grateful if you could confirm whether you support this and are content for the measures to be extended to include Scotland.

I would be grateful if you could confirm whether you agree with this devolution analysis and indicate if you would be content, in principle, to support a Legislative Consent Motion in the Scottish Parliament if and when the Bill is introduced in due course.

I am copying this letter to the Secretary of State for Scotland. I am also writing to Lesley Griffiths AS/MS, Minister for Rural Affairs and North Wales and Edwin Poots MLA, Minister for Agriculture, Environment and Rural Affairs in Northern Ireland.

RT HON GEORGE EUSTICE MP

Email Chain .

From: [Redacted] - Section 11 (2) - Personal Information@gov.scot>

Sent: 03 December 2021 10:59

To: [Redacted] - Section 11 (2) - Personal Information@defra.gov.uk>; [Redacted] - Section 11 (2) - Personal Information@defra.gov.uk>; [Redacted] - Section 11 (2) - Personal Information@defra.gov.uk>

Cc: [Redacted] - Section 11 (2) - Personal Information@gov.scot>; [Redacted] - Section 11 (2) - Personal Information@gov.scot>; [Redacted] - Section 11 (2) - Personal Information@gov.scot>; [Redacted] - Section 11 (2) - Personal Information@gov.scot>; [Redacted] - Section 11 (2) - Personal Information@gov.scot>; [Redacted] - Section 11 (2) - Personal Information@gov.scot>; [Redacted] - Section 11 (2) - Personal Information@gov.scot>; [Redacted] - Section 11 (2) - Personal Information@gov.scot>; [Redacted] - Section 11 (2) - Personal Information@defra.gov.uk>; [Redacted] - Section 11 (2) - Personal Information@defra.gov.uk>; [Redacted] - Section 11 (2) - Personal Information@defra.gov.uk>; [Redacted] - Section 11 (2) - Personal Information@gov.scot>

Subject: RE: Draft SOS letter to Scottish government on the AA Bill

Dear [Redacted] - Section 11 (2) - Personal Information

In the letter you should alter the line on planned introduction this session as this has now been postponed. As far as the devolution position and analysis is concerned, the Scottish Government's position, that the draft provisions on the hunting trophy import ban and restrictions on sale and import of new fur would legislate with regard to devolved matters, has not changed. Our lawyers may discuss further with Defra lawyers in due course.

We have not yet given detailed consideration to the current draft Bill but do have concerns about the wording of the provisions to define low welfare experiences in particular as previously discussed, so we will consider the next draft in more detail when it is available. Marine colleagues also still have some concerns about the wording for the shark fin provisions.

We will discuss whether we want to support the low welfare experiences provisions in principle with our Cabinet Secretary as soon as we receive the detailed information on previous policy development work that has been outstanding for some time. Unless I have missed something all we have actually seen from your team so far is the campaign material and evidence presented by STAE.

Overall perhaps it might be better to delay your letter until next year when some of these points may have been resolved.

Regards

[Redacted] - Section 11 (2) - Personal Information

[Redacted] - Section 11 (2) - Personal Information

[Redacted] - Section 11 (2) - Personal Information @gov.scot

[Redacted] - Section 11 (2) - Personal Information

From: [Redacted] - Section 11 (2) - Personal Information@defra.gov.uk>

Sent: 30 November 2021 15:33

To: [Redacted] - Section 11 (2) - Personal Information@gov.scot>; [Redacted] - Section 11 (2) - Personal Information@defra.gov.uk>; [Redacted] - Section 11 (2) - Personal Information@defra.gov.uk>

Cc: [Redacted] - Section 11 (2) - Personal Information@gov.scot>; [Redacted] - Section 11 (2)

- Personal Information@gov.scot>; [Redacted] - Section 11 (2) - Personal Information@gov.scot>; [Redacted] - Section 11 (2) - Personal Information@gov.scot>; [Redacted] - Section 11 (2) - Personal Information@gov.scot>; [Redacted] - Section 11 (2) - Personal Information@gov.scot>; [Redacted] - Section 11 (2) - Personal Information@gov.scot>; [Redacted] - Section 11 (2) - Personal Information@gov.scot>; [Redacted] - Section 11 (2) - Personal Information@gov.scot>; [Redacted] - Section 11 (2) - Personal Information@gov.scot>; [Redacted] - Section 11 (2) - Personal Information@defra.gov.uk>; [Redacted] - Section 11 (2) - Personal Information@defra.gov.uk>
Subject: RE: Draft SOS letter to Scottish government on the AA Bill

Hi [Redacted] - Section 11 (2) - Personal Information,

At the sub-group meeting today we talked quickly about next steps on the Animals Abroad Bill and I wanted to give you a quick update.

- It now looks likely that we will try and publish the draft Bill in January (exact date TBC)
- We are currently working to finalise the draft Bill. We will share any new drafts with you once they come through from OPC.
- We are hoping to share the detail paper on the low welfare experience ban with you shortly. Apologies for the delay on that there has been some sick leave in the policy team which set us back a bit.

In the meantime we would ideally like to get the letters to DA Ministers before the start of the December recess (next week if possible). I think last time you spoke you said that your lawyers were doing some final consideration of the devolution analysis as well. If you could send us through any feedback on the draft letter and any remaining questions on the devolution position by the end of this week that would be really appreciated.

I have attached the draft letter here again for you but do let us know if you need anything else.

Thanks

[Redacted] - Section 11 (2) - Personal Information

From: [Redacted] - Section 11 (2) - Personal Information@defra.gov.uk>

Sent: 18 October 2021 11:00

To: [Redacted] - Section 11 (2) - Personal Information@gov.scot>; [Redacted] - Section 11 (2) - Personal Information@defra.gov.uk>; [Redacted] - Section 11 (2) - Personal Information@defra.gov.uk>; [Redacted] - Section 11 (2) - Personal Information@defra.gov.uk>

Cc: [Redacted] - Section 11 (2) - Personal Information@gov.scot; [Redacted] - Section 11 (2) - Personal Information@gov.scot; [Redacted] - Section 11 (2) - Personal Information@gov.scot; [Redacted] - Section 11 (2) - Personal Information@gov.scot; [Redacted] - Section 11 (2) - Personal Information@gov.scot; [Redacted] - Section 11 (2) - Personal Information@gov.scot; [Redacted] - Section 11 (2) - Personal Information@gov.scot; [Redacted] - Section 11 (2) - Personal Information@gov.scot; [Redacted] - Section 11 (2) - Personal Information@gov.scot; [Redacted] - Section 11 (2) - Personal Information@gov.scot

Subject: RE: Draft SOS letter to Scottish government on the AA Bill

Hi [Redacted R. 10 (3)],

Thanks for getting back to us.

Re: trophy hunting. The policy is still limited to imports only. We are discussing with No.10 about future changes but for now the policy remains the same. If it changes we will need to go back to OGDs to secure collective agreement across government. If that happens, we will likely remove that section from this letter

and send it in the interim while we sort through the remaining issues on trophy hunting. If you have a view on that please do let us know.

In terms of the fur devolution, please see attached analysis.

Please do let us know your thoughts,

[Redacted] - Section 11 (2) - Personal Information | Animals Abroad Team | Animal & Plant Health and Welfare Directorate | **[Redacted] - Section 11 (2) - Personal Information**
Department for Environment, Food and Rural Affairs (DEFRA)
E: **[Redacted] - Section 11 (2) - Personal Information**@defra.gov.uk
[Redacted] - Section 11 (2) - Personal Information

From: **[Redacted] - Section 11 (2) - Personal Information**@gov.scot>

Sent: 15 October 2021 14:47

To: **[Redacted] - Section 11 (2) - Personal Information**@defra.gov.uk>; **[Redacted] - Section 11 (2) - Personal Information**@defra.gov.uk>; **[Redacted] - Section 11 (2) - Personal Information**@defra.gov.uk>; **[Redacted] - Section 11 (2) - Personal Information**@defra.gov.uk>

Cc: **[Redacted] - Section 11 (2) - Personal Information**@gov.scot; **[Redacted] - Section 11 (2) - Personal Information**@gov.scot; **[Redacted] - Section 11 (2) - Personal Information**@gov.scot; **[Redacted] - Section 11 (2) - Personal Information**@gov.scot; **[Redacted] - Section 11 (2) - Personal Information**@gov.scot>; **[Redacted] - Section 11 (2) - Personal Information**@gov.scot; **[Redacted] - Section 11 (2) - Personal Information**@gov.scot; **[Redacted] - Section 11 (2) - Personal Information**@gov.scot; **[Redacted] - Section 11 (2) - Personal Information**@gov.scot; **[Redacted] - Section 11 (2) - Personal Information**@gov.scot; **[Redacted] - Section 11 (2) - Personal Information**@gov.scot; **[Redacted] - Section 11 (2) - Personal Information**@gov.scot; **[Redacted] - Section 11 (2) - Personal Information**@gov.scot; **[Redacted] - Section 11 (2) - Personal Information**@gov.scot; **[Redacted] - Section 11 (2) - Personal Information**@gov.scot; **[Redacted] - Section 11 (2) - Personal Information**@gov.scot

Subject: FW: Draft SOS letter to Scottish government on the AA Bill

Dear **[Redacted] - Section 11 (2) - Personal Information**

Thanks for sharing this draft.

Could you confirm that you are now expecting the Bill to include a prohibition on the importation of hunting trophies only as in the letter or will this be expanded to exports as well as recently suggested?

I also note you now consider the proposed ban on the import and sale of fur to be an entirely reserved matter, which is a recent change from our previous understanding. Is there a reasoned analysis you could share with us? I am not sure that our legal advice is the same as yours on this point, or on hunting trophies.

Apart from the spelling of “dependant” which I think should be “dependent” the letter seems clear enough otherwise, although if you are able to give a more definite proposed introduction date when the letter is sent that would be useful.

Regards

[Redacted] - Section 11 (2) - Personal Information

[Redacted] - Section 11 (2) - Personal Information

[Redacted] - Section 11 (2) - Personal Information @gov.scot

[Redacted] - Section 11 (2) - Personal Information

The Accompanying Attachment to the Email Chain Above That is Within Scope of the Request

ANIMAL BILLS: TERRITORIAL EXTENT AND APPLICATION IN THE UK

[Redacted] - Section 10 (5) (f) – Third Party Information.

Email 2

From [Redacted] - Section 11 (2) - Personal Information@defra.gov.uk>
Sent: 16 December 2021 14:47
To: [Redacted] - Section 11 (2) - Personal Information@gov.scot>; [Redacted] - Section 11 (2) - Personal Information@defra.gov.uk>; [Redacted] - Section 11 (2) - Personal Information@defra.gov.uk>
Cc: [Redacted] - Section 11 (2) - Personal Information@gov.scot>; [Redacted] - Section 11 (2) - Personal Information@gov.scot>; [Redacted] - Section 11 (2) - Personal Information@gov.scot>; [Redacted] - Section 11 (2) - Personal Information@gov.scot>; [Redacted] - Section 11 (2) - Personal Information@gov.scot>; [Redacted] - Section 11 (2) - Personal Information@gov.scot>; [Redacted] - Section 11 (2) - Personal Information@gov.scot>; [Redacted] - Section 11 (2) - Personal Information@gov.scot>; [Redacted] - Section 11 (2) - Personal Information@gov.scot>; [Redacted] - Section 11 (2) - Personal Information@defra.gov.uk>; [Redacted] - Section 11 (2) - Personal Information@defra.gov.uk>; [Redacted] - Section 11 (2) - Personal Information@gov.scot>; [Redacted] - Section 11 (2) - Personal Information@defra.gov.uk>; [Redacted] - Section 11 (2) - Personal Information@gov.scot>
Subject: RE: Draft SOS letter to Scottish government on the AA Bill

Hi [Redacted] - Section 11 (2) - Personal Information

Apologies for the delay in responding to you on this. I think a discussion between our lawyers and yours might be most appropriate at this point. [Redacted] - Section 11 (2) - Personal Information (copied in) leads on the Bill on behalf of Defra legal, if you could put him in touch with the right lawyers on your side that would be appreciated.

In terms of next steps. Our Ministers are keen to write to your Ministers as soon as possible on this and I think would like to do this before they break for Christmas. I think in the circumstances it might be easiest if those letters go out as planned but that we continue to discuss the below with you into the New Year. I hope this is acceptable.

Thanks

[Redacted] - Section 11 (2) - Personal Information

The Accompanying Email Attachment

Devolution Analysis for Fur Provisions in Animals (Imports, Exports and Trade) Bill

[Redacted] - Section 10 (5) (f) – Third Party Information.