

Animal Health and Welfare (Miscellaneous Provisions) Bill 2021

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Abstract

The [Animal Health and Welfare \(Miscellaneous Provisions\) Bill 2021](#) seeks to ban fur farming and provide compensation for the three fur farming operations affected by the ban. The Bill will also repeal the [Milk \(Miscellaneous Provisions\) Act 1977](#) and make amendments to and repeal certain provisions of the [Animal Health and Welfare Act 2013](#) relating to the licensing of livestock marts. This Bill Digest seeks to assist members in the debate of the Bill and includes information on the background to the Bill, on the fur farming industry nationally and internationally and on the provisions of and implications from the Bill.



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1. Background to the Bill

Fur farming in Ireland and the need for the Bill

There are currently three mink farms (fur farms) operating legitimately (licensed under the [Musk Rats Act 1933](#)) in Ireland, breeding and rearing mink for the purpose of pelting¹ for the fur industry. However, in 2018, the Veterinary Council of Ireland recommended an immediate ban on fur farming citing animal welfare concerns. Fur farming is already banned in some countries and in 2020, the Programme for Government committed to the drafting and publication of legislation to phase out fur farming as soon as possible.

The General Scheme and pre-legislative scrutiny

The [General Scheme of the Bill](#) was published on 1 July 2021 and the Oireachtas Joint Committee on Agriculture, Food and the Marine (“the Committee”) conducted pre-legislative scrutiny (PLS) on the General Scheme on 15 July 2021. Issues and concerns raised by fur farmers about the Bill related to the compensation scheme proposed for both the fur farmers and their workers and the speed at which the ban is to come into effect. The Committee wrote to the Minister for Agriculture, Food and the Marine (“the Minister”) on 28 September 2021 asking that he consider the concerns and issues raised during PLS when finalizing the text of the Bill.

The Bill

The [Animal Health and Welfare \(Miscellaneous Provisions\) Bill 2021](#) (“the Bill”) and the Explanatory Memorandum were published by the Minister on 22 October 2021. The Bill seeks to ban fur farming in Ireland and to provide compensation for the three lawful fur farms currently engaged in fur farming here who will be put out of business because of this legislation. It makes it an offence to engage in fur farming, provides for penalties and for the disposal of fur producing animals lawfully seized following commencement of the ban on fur farming. The Bill will also repeal the [Milk \(Miscellaneous Provisions\) Act 1977](#) and make amendments to and repeal certain provisions of the [Animal Health and Welfare Act 2013](#) relating to the licensing of livestock marts. There is no Regulatory Impact Assessment (RIA) available on the Bill.

L&RS resources on fur farming and the Bill

The L&RS would like to draw readers attention to the [L&RS Bill Briefing Page](#) on the Bill which provides links to, among other things, the Bill, recent media articles, Oireachtas and Government resources, specialist commentary, and links to fur farming legislation in other jurisdictions.

¹ Once euthanised, pelting refers to the removal of the mink’s skin.

2. Table of provisions of the Bill

The substantive elements of the Bill are summarised in **Table 1, Table of provisions** below.

Section	Title	Effect
1	Definition	The “Act of 2013” means the Animal Health and Welfare Act 2013 .
2	Amendment of section 2 of the Act of 2013	This section amends section 2 (interpretation) of the Act of 2013 by redefining the definition of “animal product” by inserting (after paragraph “(c) an animal by-product or anything containing an animal by-product”), a new paragraph “(ca) the wool, skin, fur or feathers derived from an animal.”
3	Amendment of section 39 of Act of 2013	This section amends section 39 (power of member of Garda Síochána to arrest without warrant) of the Act of 2013 by inserting “or (2A)” after “ 52(2) ” in each place it occurs. This means that the new offence of engaging in skin or fur farming after commencement of the ban is now included in section 39 of the Act of 2013.
4	Amendment of section 52 of the Act of 2013	This section amends section 52 (penalties) of the Act of 2013 by inserting, after subsection 2, a new subsection 2A which makes anyone who commits the offence of engaging in skin or fur farming after commencement of the ban liable on conviction or indictment to a fine of up to €250,000 and/or up to five years imprisonment.
5	Repeal of Part 12 of Act of 2013	This section repeals Part 12 (animal marts) of the Act of 2013. Part 12 relates to the business of animal marts and has never been commenced. It gave, among other things, the Minister the power to grant/revoke licences for animal marts and to make regulations regarding animal marts. ²
6	Prohibition on fur or skin farming –	This section provides for the insertion of a new Part 12A (prohibition on fur or skin farming) into the Act of 2013.

² According to the explanation of Section 5 of the Bill in the Explanatory Memorandum, the Ministers only policy concern with animal marts relates to animal welfare, not the business of an animal mart and as such, Part 12 is being repealed. Ref: *Explanatory Memorandum for the Bill*, 2021. [online]. Available at: <https://data.oireachtas.ie/ie/oireachtas/bill/2021/136/eng/memo/b13621d-memo.pdf> [accessed on 01.11.2021]

	<p>insertion of a new Part 12A into the Act of 2013</p>	<p>Part 12A includes sections on definitions, the banning of fur farming, seizure of specified animals, compensation scheme for affected fur farmers and their workers, appointment and assignment of assessors, failure by applicant to comply, notice and remission of determination, appeals to the High Court and revocation of licences under the Musk Rats Act 1933.</p> <p>The provisions of each section of the new Part 12A are set out hereunder (sections 71A-71M).</p>
<p>71A. Definitions</p>		<p>This section provides various definitions for Part 12A and defines, among other things:</p> <ul style="list-style-type: none"> • an application (for compensation [s.71D] except in instances where the application is for the disposal of a specified animal [s 71C]); • determination (in relation to an application, a determination made by an assessor); • fur or skin farming ('the breeding, rearing or keeping of a specified animal solely or primarily for the value of or the manufacture of products from its fur or skin'); • dispose (of a specified animal); and • licensee (licensed fur farmer). <p>It also defines 'specified animal' to mean all domestic and wild members of the cat and dog families, all members of the rabbit and hare families, mink, weasel, stoat and all other rodents, all members of the raccoon and olingo family (Procyonidae), civets (Viverridae), reptiles and any other animal which may be designated by Ministerial order.</p>
<p>71B. Prohibition</p>		<p>This section prohibits anyone from engaging in fur or skin farming or possessing or controlling a specified animal for the purpose of fur or skin farming on someone else's behalf or selling or supplying specified animals to someone else to be used for fur or skin farming.</p>
<p>71C. Seizure under section 38 of specified animal: supplementary provisions</p>		<p>This section provides that where an authorised officer seizes and detains a specified animal, the Minister will, as soon as is practicable, apply to a District Court judge for an order authorising disposal of the specified animal and the judge will grant the application unless there is good reason not to.</p>

	<p>Before applying for the order, the Minister must serve the person who appears to own/control the specified animal with a notice prior to it being seized and detained, or, if that person is not readily identified, then place the notice on/near the lands where the specified animal is seized and detained.</p> <p>The order will authorise the Minister to dispose of the specified animal in an appropriate manner.³</p>
<p>71D. Compensation for licensees under Musk Rats Act 1933</p>	<p>This section provides that the affected fur farmers (i.e. the licensees under the <i>Musk Rats Act</i> 1933) can apply to the Minister for compensation because the fur farm ban will mean the end of their business. The Minister will pay the compensation as is determined in accordance with Part 12A and the regulations.</p> <p>The Minister may make regulations which will set out the details of the compensation scheme including:</p> <ul style="list-style-type: none"> • on what income losses, non-income losses and costs, compensation will be paid; • how the value of the income and non-income losses will be assessed; • regarding a particular income loss, non-income loss or cost – that a specified amount of compensation will be paid or how the amount of compensation (may be subject to a maximum amount) paid is determined; and • Subject to any conditions set out in the regulations, costs which may be paid out include: <ul style="list-style-type: none"> - Disposal of breeding mink; - Demolition and clean-up; - Statutory redundancy payment for staff; - Public relations and/or accountancy fees for representations to the Minister in the 12 months before Part 12A is enacted; and - Accountancy and/or valuation professional(s) fees for assisting the applicant with his/her application and with the assessor's

³ The definition of disposal of a specified animal in the Bill *includes* killing the animal humanely. The [Explanatory memorandum](#) to the Bill notes that, for Part 12A of the Bill, disposing of an animal may not necessarily involve killing it.

	<p>consideration of his/her application for compensation.</p> <ul style="list-style-type: none"> • The regulations will also provide for: <ul style="list-style-type: none"> - Advance payment in certain circumstances; - Manner and terms & conditions of appointment of an assessor; - Type of forms and application and documents to accompany the application; - Procedures an assessor will follow when considering an application; and - Any other related matters.
71E. Appointment of assessor	<p>This section provides that the Minister will appoint a person (an 'assessor') who he/she believes has the skills, knowledge, and qualifications to perform the functions of an assessor. The assessor will be independent, can engage one/more people to help him/her and will be paid such fees and expenses as determined by the Minister and the Minister for Public Expenditure and Reform.</p>
71F. Assignment of application to assessor	<p>Once the Minister receives an application for compensation from an affected fur farmer, he/she will assign an assessor to consider the application, providing the assessor with the application and any required documentation. The assessor will examine the application and accompanying documentation and determine the amount of compensation payable to the applicant.</p>
71G. Assessor may require or seek further information or documents	<p>To help the assessor consider the application, the assessor may, by notice in writing, ask the applicant for further information or to verify information or documents submitted with the application. Where information or documents the assessor wants verified are in the power, possession, or procurement of a third party, the applicant must make every reasonable effort to obtain the information or documents from the third party concerned.</p> <p>The notice will specify a deadline for the information or documentation which may be extended.</p> <p>The applicant and his/her employees, servants or agents must assist and cooperate with the assessor and allow the assessor entrance to the applicant's property.</p>
71H. Failure by applicant to cooperate	<p>If the applicant or, where appropriate, his/her employee, servant or agency:</p>

	<ul style="list-style-type: none"> • fails to provide any information or documents required to be submitted with the application; or • any further information or documents or verification of same requested by the assessor; or • fails to cooperate or assist fully with the assessor; <p>and, as a result, the assessor is of the opinion that he/she cannot adequately verify or substantiate the information or document provided then he/she may, when making a determination:</p> <ul style="list-style-type: none"> • draw any adverse conclusions he/she considers appropriate; • when determining the amount of compensation payable in respect of the income loss, non-income loss or cost to which the failure to supply information and/or documentation or cooperation or the incomplete, inaccurate, or misleading information relates may decide the applicant is not entitled to compensation or have regard to the failure to comply or that the information is incomplete, inaccurate or misleading.
<p>71I. Notice of determination</p>	<p>Once the assessor has made his/her determination, he/she will notify the applicant in writing as to:</p> <ul style="list-style-type: none"> • whether compensation is payable, and if so, how much; • the reasons for the determination; and • the applicant's entitlement to appeal. <p>As soon as possible after notifying the applicant, the assessor will send all documents and information he/she examined when considering the application to the Minister. Subject to an appeal, the determination is final.</p>
<p>71J. Appeal to High Court</p>	<p>This section provides that an applicant or the Minister can appeal all or part of a determination for compensation to the High Court if he/she is not happy with it within three months of receipt of the notice of determination. Each party can put forward evidence at the hearing.</p> <p>The High Court will give directions and make orders on the conduct of the appeal and, following consideration of the appeal, may:</p> <ul style="list-style-type: none"> • vary all or part of the determination;

	<ul style="list-style-type: none"> • set aside all or part of the determination and remit it to the Minister; or • substitute its determination for all or part of the determination by the assessor. <p>The High Court will only make an order to vary or set aside or substitute all or part of the determination if it is satisfied that a serious error or series of errors were made, or fair procedures were not complied with when the assessor was making all or part of the determination.</p>
<p>71K Remission of determination to Minister</p>	<p>Where the High Court makes an order to set aside all or part of the determination and remit it to the Minister, then the Minister will assign an assessor and the assessor will consider the application, having regard for the stated reasons of the High Court.</p>
<p>71L. Payment of compensation by Minister</p>	<p>This section provides that the Minister will pay the applicant the amount of compensation determined:</p> <ul style="list-style-type: none"> • As soon as practicable (after the three-month period set out to make an appeal) where no appeal has been made; or • Where an appeal on a determination was made and then the appeal ceases, as soon as practicable thereafter; or • Where the High Court has made an order to vary, substitute or affirm all or part of the determination, as soon as practicable after the order is made. <p>Where an appeal is made on only part of the determination, the Minister will pay the parts of the compensation not subject to appeal as soon as practicable and the other parts, as soon as practicable thereafter once the appeal ceases or the High Court has made an order.</p> <p>Where an advance payment was made to the applicant and not repaid, the Minister may reduce the amount of compensation payable by the amount owing on the advance payment.</p> <p>A determination under appeal ceases to be an appeal where the party who appealed or where both parties appealed, withdraw or abandon the appeal.</p> <p>A determination under appeal means all or part of a determination which has been appealed but no order has been made by the High Court. The appeal ceases to be</p>

		an appeal on the date the party who appealed withdraws/abandons the appeal or where both parties have appealed, the date on which the later party withdraws/abandons the appeal.
71M. Revocation of licences under Musk Rats Act 1933		This section revokes all licences granted under the <i>Musk Rats Act 1933</i> on the day Part 12A comes into operation.
7	Amendment of Schedule 3 to Act of 2013	This section amends Schedule 3 (Matters in respect of which Animal Health and Welfare Regulations may be made) of the Act of 2013 by inserting “including the suspension and revocation” after “granting” in paragraph 40 (regarding licences, permits etc) and inserting a new paragraph 40A regarding granting, suspension and revocation of licences in respect of livestock marts.
8	Repeal	This section repeals the Milk (Miscellaneous Provisions) Act 1977 which is no longer needed and is not replaced. ⁴
9	Short title, collective citation, construction and commencement	<p>This is a standard provision and provides that, if enacted, this Bill will be cited as the <i>Animal Health and Welfare (Miscellaneous Provisions) Act 2021</i>. It will be commenced by ministerial order and different provisions may be commenced at different times.</p> <p>The <i>Animal Health and Welfare Acts 2013</i> and <i>2019</i> and this Act (other than Section 8) will be read as one Act and cited as the <i>Animal Health and Welfare Acts 2013 to 2021</i>.</p>

Source: Library & Research Service, 2021

3. Fur farming

International experience

Approximately one hundred million animals are bred and killed on fur farms for their skin and fur each year. The main species farmed are mink, fox, raccoon dogs and chinchilla. Global fur farming statistics for 2018 indicated that China is the largest producer of furs (50.5 million animals),

⁴ The *Milk (Miscellaneous Provisions) Act 1977* provided for the payment of fees by registered proprietors of certain premises registered under the *Dairy Acts 1924-1947* and by holders of certain licences under the *Creamery Acts 1928* and *1934*, and the *Milk and Dairies Acts 1935* and *1956*, and for other related matters.

followed by the EU (37.8 million animals) and the US and Canada.⁵ However, more than 20 countries have either banned or placed restrictions on fur farming over the past two decades.⁶

Countries with fur farming bans in place include the UK, Austria, Croatia and Slovenia. The Netherlands were due to phase out mink fur farming by 2024 but due to covid outbreaks on Dutch mink fur farms, the Government shut the industry down early. France, Denmark, Sweden and Italy also introduced temporary bans on keeping fur animals due to covid concerns.⁷

Earlier in 2021 Israel became the first country in the world to ban real fur sales and California became the first state in America to ban fur sales in 2019.⁸

Europe

European [Council Directive 98/58/EC concerning the protection of animals kept for farming purposes](#) states that, with regards to breeding procedures:

‘No animal shall be kept for farming purposes unless it can be reasonably expected, on the basis of its genotype or phenotype, that it can be kept without detrimental effect on its health or welfare’.

The Council of Europe [Recommendation Concerning Fur Animals](#) (1999) further states:

“No animal shall be kept for its fur if: a) the conditions of this Recommendation cannot be met, or b) the animal belongs to a species whose members, despite these conditions being met, cannot adapt to captivity without welfare problems”.

While there is general consensus across national and international animal welfare organisations that the welfare needs of these animals cannot be satisfactorily met on fur farms, and a number of member states have already implemented bans or restrictions, there is currently no pan-European ban on fur farming.

However, in June 2021, Austria and the Netherlands led a coalition of member states requesting that the European Commission legislate to ban fur farming permanently in Europe. The ban received broad support, but some member states expressed reservations.⁹ Concerns over animal welfare of essentially wild animals whose behavioural needs cannot be met on fur farms is cited as

⁵ Humane Society International, n.d. *The fur trade* [online]. Available at: [The Fur Trade - Humane Society International \(hsi.org\)](#) [accessed on 01.11.2021]

⁶ Fur Free Alliance, 2021. *Fur bans* [online]. Available at: [Fur bans \(furfreealliance.com\)](#) [accessed on 01.11.2021]

⁷ Council of the European Union, 2021. *Fur farming in the EU – information from the Netherlands and Austrian delegations, supported by the Belgian, German, Luxembourg and Slovak delegations*. 24 June. [online]. Available at: [pdf \(europa.eu\)](#) [accessed on 01.11.2021]

⁸ Humane Society International, n.d. *The fur trade* [online]. Available at: [The Fur Trade - Humane Society International \(hsi.org\)](#) [accessed on 01.11.2021]

⁹ Fortuna, G, 2021. EU countries call for ‘permanent ban’ on fur farming. *Euractive*. 1 July [online]. Available at: [EU countries call for ‘permanent ban’ on fur farming – EURACTIV.com](#) [accessed on 01.11.2021]

the key reason for seeking the ban. Ethical concerns over keeping animals purely for their fur and risks associated with the spread of covid were also cited.¹⁰

UK

The UK was the first country in the world to ban fur farming - from the year 2000 in England and Wales and followed by Scotland and Northern Ireland in 2002. In the UK, the ban is legislated for under the [Fur Farming \(Prohibition\) Act 2000](#) and is implemented in Northern Ireland under the [Fur Farming \(Prohibition\) \(Northern Ireland\) Order 2002](#).

The UK legislation bans fur farming and the import of skin and fur products from commercial seal hunting, from wild animals trapped for their fur and from domestic cats and dogs. However, the sale of other furs is still permitted. The UK is now also considering banning the sale of furs.¹¹ Earlier this year, the English, Scottish and Welsh governments ran a consultation seeking the public's views on the fur trade.¹²

Ireland

There are three active farms in Ireland that breed and rear mink for the purposes of pelting for the fur industry. The number of minks varies depending on the time of year – during the year, over the three farms, there are approximately 15,000 breeding females. Each one produces on average, five kits which brings numbers up to 90,000. The young mink are slaughtered in November-December and by the end of year, numbers are back down to breeding females only. The maximum mink across the three farms is 100,000-110,000 individuals. According to the Department of Agriculture, Food and the Marine (“the Department”), the three farms employ an estimated 10-12 workers, but this number is fluid depending on the time of year – more staff are needed when the young are born and also during slaughter and pelting.¹³ However, in their evidence to the Committee, the fur farmers stated that “we have 13 jobs in this sector, but in the sector in total, you are probably talking about between 30 and 40 jobs.” These are direct jobs. They also noted that there will be indirect impacts on employment once the ban is implemented as mink farmers buy from various food suppliers across the country. Some mink farmers also supply fertilizer to local farmers.¹⁴

¹⁰ Council of the European Union, 2021. *Fur farming in the EU – information from the Netherlands and Austrian delegations, supported by the Belgian, German, Luxembourg and Slovak delegations*. 24 June. [online]. Available at: [pdf \(europa.eu\)](https://europa.eu) [accessed on 01.11.2021]

¹¹ Makortoff, K, 2021. People in Great Britain being asked for views of fur trade ban. *The Guardian*. 31 May [online]. Available at: <https://www.theguardian.com/business/2021/may/31/uk-government-to-ask-citizens-if-it-should-ban-fur-trade> [accessed on 29.10.2021]

¹² Department for Environment, Food & Rural Affairs. *The fur market in Great Britain* [online]. Available at: <https://consult.defra.gov.uk/animal-welfare-in-trade/fur-market-in-great-britain/> [accessed on 29.10.2021]

¹³ Approximate numbers of mink and mink farm employees provided by Mr. Gerry Greally of the Department during PLS on 15 July 2021. Transcripts of the PLS available at: [Joint Committee on Agriculture, Food and the Marine debate - Thursday, 15 Jul 2021 \(oireachtas.ie\)](https://www.oireachtas.ie/joint-committee-on-agriculture-food-and-the-marine-debate-thursday-15-jul-2021) [accessed on 29.10.2021]

¹⁴ Information presented by mink farmer, Mr. Michael Curran during PLS on 15 July 2021. Transcripts of the PLS available at: [Joint Committee on Agriculture, Food and the Marine debate - Thursday, 15 Jul 2021 \(oireachtas.ie\)](https://www.oireachtas.ie/joint-committee-on-agriculture-food-and-the-marine-debate-thursday-15-jul-2021) [accessed on 29.10.2021]

Reasons for the proposed ban

Veterinary Council of Ireland, 2018

The Veterinary Council of Ireland published a policy document on fur farming in 2018 which concluded that fur farms cannot provide all the welfare needs of mink. It recommended that “there should be an immediate ban on the farming of mink and similar wild animals for the production of fur.”¹⁵

ISPCA Report

The ISPCA, Fur Free Alliance and Respect for Animals published a briefing paper on fur farming which cited a 2018 opinion poll that showed 80% of people in Ireland agree that farming and killing of animals for their fur should be banned. The paper highlighted the impact of escaped mink on Irish biodiversity, especially on ground nesting birds including waders and seabirds. Fur farming is not a large employer in Ireland and mink, an essentially wild animal cannot be farmed without detriment to its welfare.¹⁶

Programme for Government, 2020

The [2020 Programme for Government – Our shared future](#) committed to working consistently to improve animal welfare standards and stated that the Government would:

“immediately prioritise the drafting of legislation for the phasing out of fur-farming, publishing legislation in this area as soon as possible.”

Department briefing paper, 2021

According to the Department, fur farming is no longer socially acceptable and there is broad consensus across the scientific and veterinary community that certain animals should not be farmed for their skin or fur due to animal welfare concerns which cannot be mitigated.¹⁷

¹⁵ Veterinary Ireland, 2018. *Policy document on fur farming 2018* [online]. Available at: [o \(veterinaryireland.ie\)](https://veterinaryireland.ie) [accessed on 01.11.2021]

¹⁶ ISPCA, Fur Free Alliance and Respect for Animals, n.d. *#Fur Free Ireland* [online]. Available at: [https://ispca.ie/images/pages/Fur_Free_Briefing_A4_Ireland_12112018_DEF_\(1\).pdf](https://ispca.ie/images/pages/Fur_Free_Briefing_A4_Ireland_12112018_DEF_(1).pdf) [accessed on 01.11.2021]

¹⁷ Department of Agriculture, Food and the Marine, 2021. *DAFM Briefing Note to Joint Committee on Agriculture, Food and the Marine, Animal Health and Welfare (Amendment and Miscellaneous Provisions) Bill 2021*.

4. Pre-legislative scrutiny (PLS)

The Oireachtas Joint Committee on Agriculture, Food and the Marine (“the Committee”) agreed to undertake pre-legislative scrutiny (PLS) of the General Scheme of the Bill and undertook public hearings on 15th July 2021. The stakeholders who presented at the public hearings are set out in Table 2.

Table 2: Date and Witnesses - Joint Committee on Agriculture, Food and the Marine - public meeting on the PLS of the General Scheme of the Animal Health and Welfare (Miscellaneous Provisions) Bill 2021.

Date of Committee Meeting	Witnesses
Thursday 15 July	<p>Session 1: Una Heffernan, Vasa Limited, mink farmer; Michael Curran, Willow Herb farm, mink farmer; and Gerard Reynolds, Gerard P. Reynolds Associates, contracted accountant, representing the three mink farmers.</p> <p>Session 2: Minister for Agriculture, Food and the Marine, Charlie McConalogue T.D., Gerry Greally (senior inspector in livestock breeding production and trade) and John Kinsella (principal in the legal services division) of the Department of Agriculture, Food and the Marine.</p>

Key issues

All of the key issues identified by the affected fur farmers, the Committee members and the Minister and the Department related to how the various parts of the compensation scheme would be calculated for the affected fur farmers and their staff and when the ban would take effect.

The key issues and potential solutions are set out in a way that shows the differing views held by each group (the affected fur farmers, the Minister and Department and the members) hereunder. It also includes proposals from members. However, please note that this is not an exhaustive description of all issues raised during PLS.

The key issues and concerns identified by **fur farmers and their representatives** related to:

- Inadequate compensation scheme:
 - It is proposed to base the compensation scheme on profits over a five-year period (2016-2020) whereas the fur farmers want the calculations based on a 10-year period (as was most recently done with Danish fur farms – there were different calculations, but they were based on a 10-year period). The reason for this is because fur farming is a cyclical business. Profits were down for 2016-2020 but are anticipated to rise over the next five years as with Danish fur farms closed last year due to covid, there will be a shortage of fur and the price of fur is up in 2021.

- Employee compensation – statutory redundancy only (two weeks' pay for every year of service and one additional week's pay¹⁸). Fur farmers seek enhanced statutory redundancy for their employees but did not specify what exactly they wanted.
- Inadequate compensation for clean-up and demolition - the Department has proposed a cap of €50/m² for demolition costs. However, the buildings in some of the fur farms have asbestos roofs which are expensive to remove and dispose of correctly. The fur farmers seek greater understanding and realistic compensation to ensure the clean-up and demolition is carried out in a safe and environmentally friendly manner.
- Culling and disposal costs – fur farmers have estimated a cost of €4-€5 per animal and the Department has estimated a cost of 35 cents per animal. Greater discussion and negotiation was sought on this figure.
- Fur farmers are of the view that the proposals are at odds with compensation schemes set out under the *Animal Health and Welfare Act 2013*.
- Concern that compensation would only cover reimbursement of professional fees incurred **after** the Bill had been enacted. However, fur farmers have already incurred costs in meeting the Department's requirements.
- Timeline for the proposed ban – the fur farmers anticipated a phasing out of fur farming, especially as some of them have been licensed by the Department to operate until 2024. The Minister advised during PLS that the intention is for this to be the last breeding season and from 2022, to be left with the breeding females only. No explanation was provided for the discrepancy between the proposal to cease breeding in 2021 and fur farming licenses being issued until 2024.
- Refute claims that the fur farms are being closed on animal welfare grounds and maintain that all three farms have complied with all Department requirements and inspections and international fur farming inspections and regulations. The Department agreed that the fur farmers are all in compliance with welfare regulations.

The **Minister and Department representatives** also set out their views on and responses to the concerns raised as follows:

- Consider that the compensation scheme proposed is fair and reasonable, that it takes account of the impact on the exchequer and has been informed by an independent consultant's report by Grant Thornton. However, the Department did agree to "reflect on the approach to redundancy" and to look for further information and assess the cap on demolition costs and culling and disposal costs and whether to calculate costs using a five or 10-year period.
- Noted that they found it difficult to get data from the last five years from the fur farmers regarding profits, costs etc. and only recently received the detailed data they had requested.

¹⁸ Citizens' information, 2021. *How much is statutory redundancy* [online]. Available at: [Redundancy payments \(citizensinformation.ie\)](https://www.citizensinformation.ie/en/employment/employment_rights/employment_rights_statutory_redundancy.html) [accessed on 31.10.2021]

The **members** raised several concerns and questions with the fur farmers and the Minister and the Department regarding some of the key issues already set out:

- Consensus that fur farmers and their workers must be adequately and fairly compensated for their loss of income through no fault of their own, recognition that they have complied with all animal welfare regulations and acknowledgement that this was the first time members were aware of a type of farming activity being outlawed.
- Fur farmers did not give a figure for the number of minks on their farms – if mink breed quickly, they could increase the numbers quickly and caution might be needed.
- Supported adequate and fair compensation for workers but noted that while the fur farmers are opposed to the statutory redundancy being offered by the Department, they did not have an alternative suggestion as to what they wanted for their workers. One member recommended the provision of a lump sum for all staff involved.
- Concerned over culling the mink and whether the compensation proposed would ensure that the mink are killed humanely, and the costs of the culling and disposal are fully covered. The Department advised that culling is closely monitored by their staff and private vets, all fur farmers and their workers are trained and there have been no issues with animal welfare at culling over the years.
- One member asked that, if we are banning the production of fur here, could the Bill also provide for a prohibition on the importation of fur products into Ireland?
- Another member asked would the Department need to reach agreement with the affected fur farmers before proceeding with the legislation. The Department noted that this level of detail (regarding compensation payments etc.) is usually found in secondary legislation with only the principals set out in the Act.

The Minister concluded that he would take the issues raised at PLS into account when drafting the Bill. Subsequently, the Committee sent a letter to the Minister on 28 September requesting that he take into consideration the issues and concerns raised at the PLS hearings on 15 July 2021 when drafting the Bill.¹⁹

Key issues which were successfully included in the Bill

The key issues related to compensation and most of the details of the compensation scheme will now be set out via regulations. This means that it is not possible to determine which related issues (if any) issues raised during PLS will be reflected in the regulations. However, one issue, that of the reimbursement of professional fees incurred by applicants before the Bill is enacted, did make it into the Bill which now provides that:

- Public relations professionals and/or chartered accountants fees for representations to the Minister in the 12 months before Part 12A is enacted are allowed.

Regarding the timeline for the implementation of the ban, there is no commencement date specified in the Bill so it is not possible to confirm whether 2021 will be the last year for breeding mink.

¹⁹ Committee on Agriculture, Food and the Marine, 2021. *Pre-legislative scrutiny of the Animal Health and Welfare (Miscellaneous Provisions) Bill 2021*. 28 September [online]. Available at: [2021-09-28_report-on-pre-legislative-scrutiny-of-the-animal-health-and-welfare-amendment-and-miscellaneous-provisions-bill-2021_en.pdf \(oireachtas.ie\)](https://www.oireachtas.ie/en/committees/agriculture-food-and-the-marine/2021/09/28-report-on-pre-legislative-scrutiny-of-the-animal-health-and-welfare-amendment-and-miscellaneous-provisions-bill-2021-en.pdf) [accessed on 29.10.2021]

1. Principal provisions

The Bill contains a total of nine sections. An explanation of each section is contained in Section 2, *Table of provisions of the Bill*. The fur farmers have already accepted that their farming operations will be phased out and the key concerns relate to the details of the compensation they and their workers will receive. This section of the Digest provides an analysis of the compensation scheme proposed in the Bill and potential implications.

Part 12A, Section 71D. Compensation for licensees under Musk Rats Act 1933

Section 71D (1) provides that the affected fur farmers can apply to the Minister for compensation because the fur farming ban will mean the end of their business and Section 71D (2) provides that the Minister will pay the compensation as is determined in accordance with Part 12A and the regulations.

Section 71D (3) provides that the Minister may make regulations which will set out the details of the compensation scheme. The regulations will:

- (a) Specify what income losses, non-income losses and costs will be compensated for;
- (b) Provide the basis for the valuation for assessing the income and non-income losses; and
- (c) Provide that, regarding a particular income or non-income loss or cost – that a specified amount of compensation will be paid or the basis on which the amount of compensation paid (may be subject to a maximum) will be paid.
- (d) Subject to any conditions set out in the regulations, for the types of costs reasonably incurred, these include:
 - Disposal of breeding mink;
 - Demolition and clean-up. This covers the removal of any buildings, specialised fencing or other structures used for fur farming which cannot be reasonably used for other purposes;
 - Statutory redundancy payment for staff; and
 - Costs incurred by the applicant for services provided by:
 - o a chartered accountant and/or public relations professional to the applicant for representations to the Minister in the 12 months **before** Part 12A is enacted (ceasing once this Part is enacted); and
 - o a chartered accountant and/or valuation professional(s) for assisting the applicant with his/her application and with the assessor's consideration of his/her application for compensation.
- (e) Provide that the Minister can authorise making an advance payment to an applicant in specified circumstances regarding any particular income or non-income loss or cost. This section also provides for how any advance payment will be set off or recovered against any compensation payments made.
- (f) Provides for an assessors appointment and the terms and conditions of such appointment. The appointment of assessors is set out in Section 71E.

- (g) Specifies the form and content of the application for compensation, what documents and other information must be submitted with the application and the timeline for submission of the application.
- (h) Specifies the procedures an assessor will follow when he/she is considering the application for compensation.
- (i) Provides for any other related matters that the Minister considers necessary for the purpose of the regulations.

Analysis of potential issues and supports

As the details of the compensation scheme will be set out in regulations, an analysis of all parts of Section 71D is not possible. According to the Department, regulations rather than primary legislation would allow for greater flexibility.²⁰

Some potential issues relating to specific parts of the compensation scheme which can be analysed and may be of assistance to members when considering the Bill are outlined hereunder.

Adequacy and fairness of the compensation scheme

According to a briefing paper on the Bill provided to the Committee by the Department, the compensation scheme proposed for the affected fur farmers:

“takes into consideration the scale and underlying performance of the industry and adequately addresses losses directly associate with the ban while at the same time balancing the exposure to the exchequer by setting out criteria upon which compensation will be payable.”²¹

However, as set out in the PLS, the affected fur farmers disagree and have requested that compensation be calculated on an average of the profits for a ten-year period and not for the last five years (2016-2020) as was proposed by the Department. The fur farmers described the cyclical nature of fur farming and stated that 2016-2020 was a down cycle and losses were incurred during that period, meaning that, compensation based on profits from those years would be nil. However, the years 2011-2015 were profitable and 2021 onwards is expected to be profitable again. The fur farmers believe that taking a ten-year period would be a fairer way of calculating profits and that the way in which the compensation is calculated will have a significant impact on the amount they receive.

²⁰ Committee on Agriculture, Food and the Marine, 2021. *Pre-legislative scrutiny of the Animal Health and Welfare (Miscellaneous Provisions) Bill 2021*. 28 September [online]. Available at: [2021-09-28 report-on-pre-legislative-scrutiny-of-the-animal-health-and-welfare-amendment-and-miscellaneous-provisions-bill-2021_en.pdf \(oireachtas.ie\)](https://www.oireachtas.ie/en/committees/agriculture-food-and-the-marine/2021/09/28-report-on-pre-legislative-scrutiny-of-the-animal-health-and-welfare-amendment-and-miscellaneous-provisions-bill-2021_en.pdf) [accessed on 29.10.2021]

²¹ Department of Agriculture, Food and the Marine, 2021. *DAFM Briefing Note to Joint Committee on Agriculture, Food and the Marine, Animal Health and Welfare (Amendment and Miscellaneous Provisions) Bill 2021*.

Greater negotiation and engagement which may be required

The Bill provides that regarding a particular income or non-income loss or cost, the regulations may specify the amount of compensation paid or put a cap on the amount that can be paid. There is a large gap between what figures the fur farmers and the Department have estimated culling and disposal costs and demolition and clean-up costs to be. During PLS the Department committed to looking again at these figures. Their decision will have a significant impact on the amount of payment the fur farmers receive and whether the compensation will be enough for them to carry out culling and disposal and demolition and clean-up in a safe and environmentally friendly manner.

The fur farmers also stated during PLS that they were not aware of any engagement between the local authorities and the Department and had concerns that there might be planning implications from demolition and clean-up works required.

Additional support

The Bill has provided for two new additional supports to fur farmers which were not in the general Scheme:

- Advance payment in certain circumstances; and
- Provision of compensation for certain professional costs by the applicant in the year before Part 12A is enacted.

These supports should assist the fur farmers financially during the process of phasing out and ceasing their fur farming business.

5. Implications from the Bill

Economic

The phase out of fur farms in Ireland will have negative financial implications on the three operating fur farms in Ireland, their staff and those indirectly affected such as food suppliers. Wider economic impacts are not anticipated.

Social

According to the ISPCA, a 2018 opinion poll that showed 80% of people in Ireland are supportive of a ban on fur farming.

Animal welfare

The culling or disposal of the animals must be carried out in a humane manner (note that disposal does not necessarily mean killing). Once fur farming is banned here, there will be no more animal welfare concerns over farmed mink.

Environmental

Concerns were raised during PLS, that if the culling and the demolition and clean up works are not sufficiently financed and carried out responsibly, there could be negative environmental impacts.

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