

Amendment to EU Withdrawal Bill: NC30 Animal Sentience

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Compiled by: Dr Gabrielle Laing and Lord Trees

Lisbon Treaty and proposed amendment:

The Lisbon Treaty Article 13 (as shown below) will not currently be translated into UK law under the Withdrawal Bill as it is not an EU Regulation:

“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.”

An Amendment in order to translate this protocol into UK law under the Withdrawal Bill was proposed by Caroline Lucas MP in House of Commons 15/11/17 - New Clause 30

EU Protocol on animal sentience

“Obligations and rights contained within the EU Protocol on animal sentience set out in Article 13 of Title II of the Lisbon Treaty shall be recognised and available in domestic law on and after exit day, and shall be enforced and followed accordingly.” (Caroline Lucas.)

This new clause seeks to transfer the EU Protocol on animal sentience set out in Article 13 of Title II of the Lisbon Treaty into UK law, so that animals continue to be recognised as sentient beings under domestic law.

- Amendment 350, page 6, line 18, at end insert—

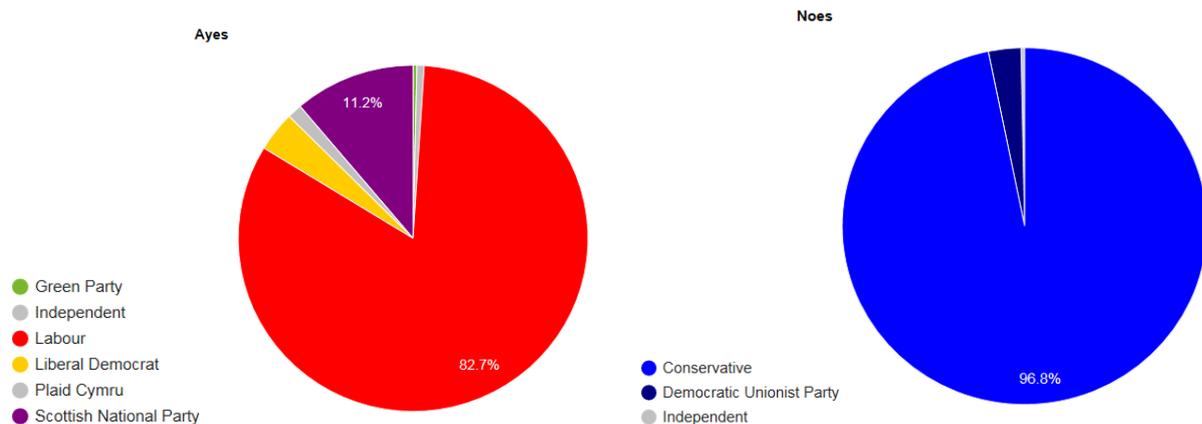
“(g) fail to pay full regard to the welfare requirements of animals as sentient beings.”

This amendment holds Ministers to the animal welfare standards enshrined in Article 13 of the Treaty on the Functioning of the European Union (TFEU).

Hansard – transcript of 8hour debate on the EU Withdrawal Bill 15th November 2017, discussed multiple amendments including ‘animal sentience’:

[https://hansard.parliament.uk/Commons/2017-11-15/debates/7A700C0E-8BA2-4EEC-B53D-997028C06900/EuropeanUnion\(Withdrawal\)Bill#contribution-E680DE1B-17F9-4DC2-8137-26B711763B66](https://hansard.parliament.uk/Commons/2017-11-15/debates/7A700C0E-8BA2-4EEC-B53D-997028C06900/EuropeanUnion(Withdrawal)Bill#contribution-E680DE1B-17F9-4DC2-8137-26B711763B66)

Division 15th November 2017, House of Commons:



New Clause 30 was rejected with an 18 majority for the Government. 313 against, 295 in favour.

Media and Stakeholder statements:

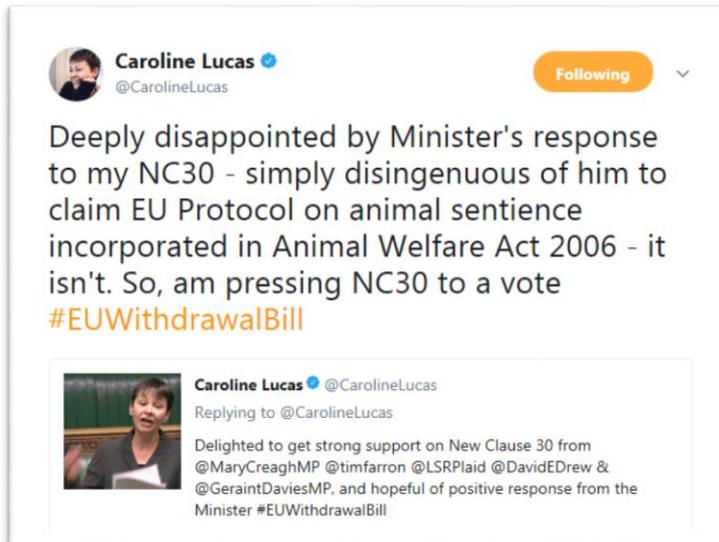
- July 2017 Michael Gove (Secretary of State for Defra)** replies to Henry Smith MP to confirm Article 13 of Lisbon treaty will be part of repeal Bill – Environment, Food and Rural Affairs debate 20/07/17, House of Commons (Hansard <https://goo.gl/tWYMTc>)

Gove: *“Absolutely. Before we entered the European Union, we recognised in our own legislation that animals were sentient beings. I am an animal; we are all animals, and therefore I care— [Interruption.] I am predominantly herbivorous, I should add. It is an absolutely vital commitment that we have to ensure that all creation is maintained, enhanced and protected.”*
- November 15/11/17 (before the vote) George Eustice, Minister for Agriculture, Fisheries and Food** <https://twitter.com/ConservativeAWF/status/930872319068778496> 10.57am 15/11

‘We support the view that animals are sentient beings & indeed how we treat sentient beings is in my view, a hallmark of a civilised society & is always why I have always championed high animal welfare when it comes to agriculture policy’
- November 16/11/17 Lord Gardiner (Under Secretary of State for Defra)** speaking at BVA congress: *“The thrust of the Article is recognised by Government and endorsed by me. How do we properly move the Article into Legislation without unintended consequences? The instincts of what is in Article 13 are very much endorsed.”*
- RSPCA** Statement following HoC NC30 amendment rejected: Head of Public Affairs David Bowles disputes the fact that the Animal Welfare Act (AWA) will cover the same thrust of Article 13, tweeting that the AWA only covers domestic animals and only recognises ‘pain’ and certain

emotions. https://www.rspca.org.uk/getinvolved/campaign/sentientbeings/-/articleName/CAM_Sentient_beings

- **BVA Statement following HoC NC30 amendment rejected:** BVA does believe that the provisions



contained in Article 13 must be brought into UK legislation. Yes, as Ministers argue, we have the Animal Welfare Acts in the four countries of the UK and they are some of the best pieces of welfare legislation in the world. But they don't state that all animals are sentient beings, and, vitally, they don't explicitly put the duty on the state to consider animal welfare when developing and implementing other policies. This is an important distinction.

In [our statement](#) following the vote we expressed concern that by rejecting this duty, the UK was sending the wrong message to the global community about our ongoing commitment to high animal welfare standards. And, as BVA has continually argued, maintaining and enhancing animal welfare standards must be our trade USP post-Brexit. As animal welfare science progresses, we must have an overarching recognition in legislation of the sentience of all animals, to underpin all government policies.

Ministers have suggested that there are other ways to enshrine this concept into UK law, for example by making a statement on the floor of the House (a rather quaint way of putting into public record the Government's intentions). But we have consulted with Mike Radford, an expert in animal welfare law at the University of Aberdeen, and when we asked if this would be sufficient his answer was an emphatic no.

<https://www.bva.co.uk/news-campaigns-and-policy/newsroom/news-releases/bva---rejection-of-animal-sentience-from-brexit-bill-risks-uk-shortfall-on-high-animal-welfare-standards/>

- **Association of Lawyers for Animal Welfare (ALAW) Statement following HoC NC30 amendment rejected:**

We underline the importance of preserving Article 13 of the Treaty on the Functioning of the EU, which recognises animals as 'sentient beings' and requires the EU and Member States, when formulating and implementing EU policy on, inter alia, agriculture and transport, to "pay full regard to the welfare requirements of animals". The recognition of animals as sentient beings and the requirement for the Government and other public bodies to pay full regard to the welfare requirements of animals when formulating and implementing policy in the areas specified by Article 13, must be incorporated into UK law post-Brexit.

Our chapters on wildlife, use of animals in research, and companion animals all

highlight important areas in which the UK needs to ensure current EU welfare standards are maintained or improved. Examples include reducing and replacing tests on animals, the protection of wildlife and their habitats, and ensuring protection from diseases arising from the movement of cats, dogs and horses.

https://www.wcl.org.uk/docs/Link_A-law_Brexit_Animal_Welfare_Summary_Oct17.pdf

- **Compassion in World Farming** statement following HoC NC30 amendment rejected:
"We are extremely disappointed to learn that the Bill has omitted key elements of European Union commitment to animal welfare. Ministers had indicated Brexit would be an opportunity to improve animal welfare in the UK but the Bill suggests the exact opposite."
<https://assets.ciwf.org/media/7431218/note-on-the-absence-of-article-13-tfeu-from-repeal-bill-002.pdf>
- **Michael Gove - Defra Written Ministerial Statement 23/11/17**
<https://www.gov.uk/government/news/environment-secretary-confirms-sentience-of-animals-will-continue-to-be-recognised-and-protections-strengthened-when-we-leave-the-eu>



“Ministers explained on the floor of the house that this Government’s policies on animal welfare are driven by our recognition that animals are indeed sentient beings and we are acting energetically to reduce the risk of harm to animals – whether on farms or in the wild. The vote against New Clause 30 was the rejection of a faulty amendment, which would not have achieved its stated aims of providing appropriate protection for animals.

The Prime Minister has made clear that we will strengthen our animal welfare rules. This government will ensure that any necessary changes required to UK law are made in a rigorous and comprehensive way to ensure animal sentience is recognised after we leave the EU. The Withdrawal Bill is not the right place to address this, however we are considering the right legislative vehicle.”

House of Lords debate: Brexit and Agriculture / Brexit and Animal welfare 17/10/17

Hansard transcript link to debate: <https://goo.gl/uzRH5H>

Lord Trees poses question to Government: *“...with regard to the withdrawal Bill and animal welfare, while the Secretary of State has given some assurances about the important legal principles set out in the EU treaties, can the Minister explain, in writing if necessary, which of the principles of animal sentience and environmental laws will be recognised as general principles under the terms of the withdrawal Bill? Importantly, can he confirm whether they will apply to future government decision-making and judgments in court?”*

Lord Trees full spoken contribution: <https://goo.gl/fhg4Fd>

Ministerial response (Lord Gardiner) by letter to Lord Teverson 3/11/17:

Lord Trees asked which of the principles of animal sentience and environmental laws will be recognised as general principles under the terms of the EU (Withdrawal) Bill, and whether they would apply to future government decision-making and judgments in court.

The EU (Withdrawal) Bill will convert the existing body of direct EU animal welfare and environmental laws to become UK laws. It will make sure that the same protections are in place in the UK and laws still function effectively after the UK leaves the EU.

The Withdrawal Bill will preserve environmental principles where they are included in existing EU legislation and case law. We recognise the importance of these issues and will listen carefully to the views of Parliament as the Bill progresses.

Article 13 of the Treaty on the Functioning of the European Union (TFEU) created a qualified obligation on the EU and EU Member States “to have full regard [to] the welfare of animals as they are sentient being” when formulating and implementing certain EU laws.

Existing domestic law such as the Animal Welfare Act 2006 and the various Welfare Codes made under it already protect animals where there is clear scientific evidence that they are capable of experiencing pain and suffering. Its scope is capable of being extended where the science justifies.

We are exploring how the ‘animal sentience’ principle of Article 13 can continue to be reflected in the UK when we leave the EU.

Existing UK Legislation

Animal Welfare Act 2006

The [Animal Welfare Act 2006](#) makes owners and keepers responsible for ensuring that the welfare needs of their animals are met. These include the need: for a suitable environment (place to live);

for a suitable diet; to exhibit normal behaviour patterns; to be housed with, or apart from, other animals (if applicable); to be protected from pain, injury, suffering and disease

An 'animal' as [defined](#) by the Act is a 'vertebrate other than man' but the definition can be extended, on the basis of scientific evidence, to invertebrates that can experience 'pain or suffering'. Unlike previous legislation, the Act applies to all animals on common land.

However, the existing legislation within the Animal Welfare Act places the onus of responsibility for the care of animals on the keepers of those animals. Whereas Article 13 of the Lisbon Treaty imposes duties on the state. This is the real and critical aspect of this debate.

The welfare of farmed animals is protected by the Animal Welfare Act 2006 and additionally protected by [The Welfare of Farmed Animals \(England\) Regulations 2007](#) (as amended: S.I. 2007 No.2078 [Welfare of Farmed Animals \(England\) \(Amendment\) Regulations 2010](#)), which are made under the Animal Welfare Act. The Welfare of Farmed Animals (England) Regulations 2007 set minimum standards for all farm animals ([Guidance to the 2007 Regulations](#)). These regulations continue to implement EU directives on the welfare of calves, pigs, laying hens, conventionally reared meat chickens and a general welfare framework directive, which sets down minimum standards for the protection of all farmed livestock.