

Draft act

of the Federal Government

Draft Act amending the Animal Welfare Act and the Animal Products Trade Prohibition Act

A. Problem and objective

The inclusion of animal welfare as a state aim anchored in the Basic Law (Grundgesetz, GG) has given much greater weight to animal welfare in Germany. Since 2002, by inserting the words 'and animals' in Article 20a of the Basic Law, the duty to protect has also been extended to animals. Ethical animal welfare has thus been enshrined in the constitution. Since then, neither animal welfare nor constitutionally protected interests competing with it have had a general priority. In case of conflict, it must be decided, as part of a balancing exercise and taking into account the typical nature and specific circumstances of the case, which interest protected by constitutional law must cede importance. Improving animal welfare is a high priority. This is also reflected in the numerous undertakings made in the 2021-2025 Coalition Agreement 'Dare to make progress – Alliance for Freedom, Justice and Sustainability' in this area. Realisation of these undertakings requires, inter alia, the present Act amending the Animal Welfare Act, which closes legislative and enforcement gaps concerning animal welfare and brings the existing animal welfare provisions in line with current scientific knowledge. The aim is to comprehensively reinforce animal welfare in the keeping and use of animals.

B. Solution

Improvements are to be made by amending, adding to or replacing existing animal welfare provisions and by enacting and adding to the enabling provisions in the Animal Welfare Act. The following amendments and additions are to be highlighted in particular:

- The ban on the tethered keeping of animals.
- The reduction in non-curative interventions.
- The obligation to provide ID when trading in pet animals online.
- The introduction of video surveillance in slaughterhouses.
- The ban on exhibiting and advertising with animals that have cruel breeding characteristics.
- The ban on keeping and putting on display certain animals at changing locations.
- The increase in the range of penalties and fines.

The amendments and additions summarised above are also accompanied by further new updates, which will sustainably improve animal welfare legislation and bring it in line with current scientific knowledge.

C. Alternatives

There are no alternatives to the present amendments, additions and adaptations to the Animal Welfare Act.

D. Budgetary expenditure exclusive of compliance costs

The draft does not result in any budgetary expenditure exclusive of compliance costs.

Any additional requirements at federal level are to be covered financially and in terms of staffing in the respective sections of the budget.

E. Compliance costs

E.1 Compliance costs for citizens

There are no compliance costs for citizens.

E.2 Compliance costs for businesses

For businesses, it is estimated that annual compliance costs will change by approximately EUR 106 480 000. This includes EUR 6 990 000 in administrative costs resulting from obligations to provide information. In total, there will be one-off costs of around EUR 899 461 000. Of this, approximately EUR 898 052 000 is attributed to the acquisition or conversion of machinery, equipment, buildings and infrastructure and EUR 109 000 to the introduction or adaptation of digital process flows, and EUR 1 300 000 to one-off obligations to provide information.

The ongoing compliance burden for the economy represents an “in” according to the Federal Government’s “one in, one out” regulation. Relief during the legislative period is sought.

Where possible, exceptions for small and medium-sized enterprises have been included.

E.3 Compliance costs for the authorities

For the authorities at Land level (including municipalities), annual compliance costs will change by around EUR 14 297 000. One-off compliance costs at Land level (including municipalities) amount to approximately EUR 1 043 000.

Any additional requirements at federal level are to be covered financially and in terms of staffing in the respective sections of the budget.

F. Additional costs

The draft does not entail any additional costs for citizens, business or the authorities.

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Dated ...

The German Bundestag has adopted the following Act:

Article 1

Amendment to the Animal Welfare Act

The Animal Welfare Act in the version published on 18 May 2006 (Federal Law Gazette (BGBl.) I, p. 1206, 1313), as last amended by Article 2(20) of the Act of 20 December 2022 (BGBl. I, p. 2752), is amended as follows:

1. § 2a is amended as follows:
 - a) Paragraph (1) is amended as follows:
 - a%6) In point 1, a comma and the words 'subject to § 2b(1) to (3),' are inserted after the words 'freedom of movement'.
 - b%6) In point 2, the word 'tethers' is deleted.
 - b) In § 2a(1b), the words 'and registration' are inserted after the words 'provisions on marking' and the words 'and registration' are inserted after the words 'implementation of marking'.
2. After § 2a, the following § 2b is inserted:

'§ 2b

(1) An animal must not be kept tethered. By way of derogation from the first sentence, tethered keeping of an animal shall be permitted provided that:

1. the tethering is required in a specific case on the basis of a veterinary indication;
2. the animal is intended to be used in animal experiments or its tissue or organs are intended to be used for scientific purposes; or
3. this is permitted by ordinance in accordance with paragraph (2).

*)Article 1 point 7 letter (a) double letter (aa) triple letter (bbb), double letter (dd) and point 9 letter (g) also serve to transpose Council Directive 2008/120/EC of 18 December 2008 laying down minimum standards for the protection of pigs (OJ L 047, 18.2.2009, p. 5), as last amended by Regulation (EU) 2017/625 (OJ L 95, 7.4.2017, p. 1).

** The obligations arising from Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (OJ L 241, 17.9.2015, p. 1) have been met.

(2) The Federal Ministry is authorised to permit exemptions from the ban laid down in paragraph 1, sentence 2, points 1 and 2, by means of ordinance with the assent of the Bundesrat, insofar as this is compatible with § 1.

(3) The Federal Ministry is also authorised to lay down, by means of ordinance with the assent of the Bundesrat, to the extent necessary for animal welfare:

1. requirements concerning the tethered keeping of animals, in particular the type of tethering, the duration and the possibilities to be provided for unrestricted movement;
2. requirements concerning the nature of tethering devices.

(4) Ordinances referred to in paragraph (3) require the agreement of the Federal Ministry of Education and Research insofar as they lay down requirements for the tethered keeping of animals intended for use in animal experiments or the tissue or organs of which are intended to be used for scientific purposes.'

3. § 4 is amended as follows:

- a) In the third sentence of paragraph (1a), the words 'on board a fishing vessel directly after being caught' are inserted after the word 'fish'.
- b) The following paragraph (4) is added:

(1) ' Paragraph (1), the first, third and fourth sentences of paragraph (1a) and the first sentence of paragraph (3) shall apply mutatis mutandis to cephalopods and decapods.'

4. In § 4b point 1 letter (d) and (e), a comma and the words 'cephalopods or decapods' are inserted after the word 'vertebrates' in each case.

5. After § 4c, the following § 4d is inserted:

'§ 4d

(1) In order for the competent authority to identify breaches and prevent future breaches of animal welfare legislation, the operator of a slaughterhouse in which warm-blooded animals are slaughtered, must at its own expense, make video recordings by means of openly visible optical electronic devices in accordance with paragraph (3).

(2) Paragraph (1) shall not apply to slaughterhouses which, in accordance with Article 17(6) of Council Regulation (EC) No 1099/2009 of 24 September 2009 on the protection of animals at the time of killing (OJ L 303, 18.11.2009, p. 1; L 326, 11.11.2014, p. 6), as last amended by Implementing Regulation (EU) 2018/723 (OJ L 122, 17.5.2018, p. 11), do not have to appoint an animal welfare officer. In the cases referred to in the first sentence, the competent authority may order video surveillance if there are actual indications of breaches of animal welfare legislation in the slaughterhouse concerned.

(3) The video recordings referred to in paragraph (1) must capture the animals and the persons handling the animals, in a manner appropriate to the purpose referred to in paragraph (1),

1. during unloading,

2. during the period between the end of unloading and
 - a) the start of stunning, or
 - b) the making of the sticking cut, insofar as the animal is slaughtered without stunning,
3. during stunning,
4. during suspension after stunning,
5. during the making of the sticking cut,
6. during the period of exsanguination and
7. during
 - a) dressing or scalding of animals slaughtered by blood removal after prior stunning,
 - b) suspension of animals slaughtered without stunning by blood removal, and
 - c) initial operations after killing, on animals killed without blood removal.

(4) The operator of a slaughterhouse shall store the video recordings referred to in paragraph (1) for the last 30 days on which slaughter took place, plus the time of delivery of the animals, if not delivered on the day of slaughter. The video recordings shall be made available to the competent authority by the operator of the slaughterhouse for each working day so as to be retrievable for inspection purposes. The operator of the slaughterhouse shall document the retrievals. Such documentation must contain the data used in carrying out the retrieval, the date and time of the retrievals, the name of the retrieving department and the data retrieved. The logged data may only be used for the purposes of data protection control, data backup or to ensure proper operation of the data processing system. The log data shall be protected by appropriate safeguards against use other than as intended and other misuse and shall be automatically erased six months after the expiry of the retention period referred to in the first sentence. Once the retention period referred to in the first sentence has expired, the video recordings shall be automatically erased by the slaughterhouse operator.

(5) The competent authority shall inspect the video recordings on a random basis and as prompted by events. The competent authority shall be authorised to retrieve the video recordings from the slaughterhouse and to store and use them insofar as this is necessary to verify the existence of possible breaches of animal welfare legislation. If stored by the competent authority, the video recordings shall be erased immediately after being inspected by the authority. If the recording indicates breaches of animal welfare legislation, the competent authority may further process the video recordings for the purpose of administrative, regulatory or criminal proceedings. Once a final ruling has been made in the proceedings referred to in the fourth sentence, the recordings shall be erased at the end of the day on which the ruling takes effect in law. If the proceedings referred to in the fourth sentence are conducted by a body other than the competent authority, that body shall notify the competent authority without delay when the ruling takes effect in law. The competent authority shall erase the records without delay upon receipt of the notification referred to in the sixth sentence.

(6) The competent authority shall check

1. fulfilment of the requirements referred to in paragraph (3), when the optical electronic equipment was installed for the first time or significant structural, technical or procedural changes to the slaughterhouse have taken place, and
2. the form in which the slaughterhouse intends to provide the video recordings referred to in the first sentence of paragraph (4) so as to ensure that the video recordings can actually be used by the competent authority.

(7) The Federal Ministry is authorised to lay down, by means of ordinance with the assent of the Bundesrat, the details necessary for the optical electronic surveillance referred to in paragraph (1). In particular, the ordinance referred to in the first sentence may lay down:

1. the technical requirements for the optical electronic equipment to be used; and
2. the areas to be captured by optical electronic monitoring in accordance with paragraph (3), given the different conditions in slaughterhouses for different species of warm-blooded animals.'

6. § 5 is amended as follows:

a) In paragraph (1), the fourth sentence is repealed.

b) Paragraph (3) is amended as follows:

a%6) In point 1, the word 'cattle,' is deleted.

b%6) Points 2 to 4 are replaced by the following point 2:

1. 'for docking the tails of piglets under four days of age kept for commercial purposes as farm animals,'.

c%6) The current points 5 to 7 become points 3 to 5.

7. § 6 is amended as follows:

a) Paragraph (1) is amended as follows:

a%6) The second sentence is amended as follows:

a%7%7) In point 2, the words 'paragraph 3 (1) or (7)' are replaced by the words 'paragraph (3) (1) or (5)'.

b%7%7) Point 2a is replaced by the following points 2a to 2d:

- 2a. male pigs are castrated by a method other than the removal of tissue,
- 2b. cattle under six weeks of age are being dehorned or their horn growth is being prevented and the intervention is essential in the individual case for the intended use of the animal with regard to the welfare of the animal or the welfare of other animals,

2c. male cattle under four weeks of age are being castrated,

2d. a case as referred to in § 5(3) point 2 is present and

- a) the intervention is carried out in the individual case,
- b) not more than one third of the tail is docked and
- c) the keeper of the piglet on which the intervention is carried out has, at the time of the intervention, a written or electronic declaration for at least one facility for which the piglet is intended to be kept as a weaner, breeder or fattening pig, stating that in that facility:

a%6) tail or ear injuries have occurred in more than five per cent of the animals over the previous four months or keeping the animal with a docked tail is necessary in order to implement a reduction strategy pursuant to the first sentence of § 11(10) with regard to its welfare,

b%6) a risk analysis and assessment has been carried out in accordance with § 11(9) first sentence point 1 letter (c), and

c%6) measures have already been taken pursuant to § 11(9) first sentence point 1 letter (d),’.

c%7%7) In point 3, the words ‘paragraph 3 (2) to (6)’ are replaced by the words ‘paragraph 3 (3) and (4)’.

b%6) The second half sentence of the third sentence is amended as follows:

a%7%7) After the reference ‘point 2a’, a comma and the reference ‘2b or 2c’ are inserted.

b%7%7) After the words ‘is present’, the words ‘or in the case of the second sentence point 2a the pig is older than seven days’ are inserted.

c%6) The fourth sentence is amended as follows:

a%7%7) In point 1, a comma and the reference ‘2d’ are inserted after the reference ‘1b, 2’.

b%7%7) In point 2, a comma and the reference ‘2b or 2c’ are inserted after the reference ‘point 2a’.

d%6) The fifth sentence is replaced by the following sentences:

‘In the case of interventions referred to in the second sentence, where anaesthesia is required, all possibilities to reduce subsequent pain to the animals shall be exhausted; in particular, pain-relieving veterinary medicinal products shall be used on the animal. In the case of interventions referred to in the second sentence point 2d, the keeper of the piglet on which the intervention is carried out must keep the declaration referred to in the second sentence point 2d(c) for three years from the date of the intervention. Unless stipulated otherwise by other statutory provisions, personal data contained in

the declaration referred to in the sixth sentence shall be erased without delay after the retention period has expired. If the data has been stored electronically, the erasure must be carried out automatically, if technically possible.'

b) Paragraph (2) is worded as follows:

(1) ' It is prohibited to use elastic rings during amputation or castration.'

c) Paragraph (3) first sentence point 3 is repealed.

d) Paragraph (5) is worded as follows:

(1) ' In the case referred to in paragraph (1) second sentence point 2b and 3, it shall be demonstrated to the competent authority, upon request, that the intervention is essential for the intended use of the animal. In the case referred to in paragraph (1) second sentence point 2d, it shall be demonstrated to the competent authority, upon request, that the conditions for docking the piglet's tail were met at the time of the intervention.'

8. In § 8(1) second sentence point 5, the words '§ 2a(3), in each case' are inserted after the words '§ 2b(1) points 1 to 4,'.

9. § 11 is amended as follows:

a) The fourth sentence of paragraph (2) is repealed.

b) Paragraph 2 is amended as follows:

a%6) Sentence 1 is amended as follows:

a%7%7) In the introductory part of the sentence, the words 'paragraph (1) first sentence' are replaced by 'paragraph (1)'.

b%7%7) In point 1, the words 'paragraph (1) first sentence' are replaced by 'paragraph (1)'.

c%7%7) In point 3, the words 'paragraph (1) first sentence' are replaced by the words 'paragraph (1)'.

b%6) In the second sentence, the words 'paragraph (1) first sentence' are replaced by 'paragraph (1)'.

c) After Paragraph 2, the following Paragraph 2a has been inserted:

"(2a) The Federal Ministry is authorised to require, by means of ordinance with the assent of the Bundesrat, commercially acting persons within the meaning of paragraph (1) point 8 letter (a) and (b) to keep stock records or equivalent records, in particular on the identity, origin and whereabouts of the animals. Ordinances referred to in the first sentence may specify in greater detail the content and manner of the stock records or equivalent records.'

d) In paragraph (3), in the introductory part of the sentence, a comma and the reference '§ 2b(3)' are inserted after '§ 2a(1)' and 'first sentence' is deleted in each case.

e) Paragraph (4) is worded as follows:

(1) ' It is prohibited to keep or put on display elephants, hippopotamuses, giraffes, bears, big cats, rhinoceroses, primates and seals at changing locations. The first sentence shall not apply to zoos and animal enclosures within the meaning of § 43 of the Federal Nature Conservation Act of 29 July 2009 (BGBl. I, p. 2542), as last amended by Article 3 of the Act of 8 December 2022 (BGBl. I p. 2240). Furthermore, the first sentence shall not apply if it can be guaranteed that the keeping or putting on display in changing locations involves no pain, suffering or harm to the animal in question, in particular because:

1. the duration of the transportation and the frequency of change in location do not adversely affect the health of the animal in question; and
2. the locations in which the animal is to stay are suitable for keeping the animal in question and meet the requirements of § 2 points 1 and 2.'

f) In paragraph (5) first sentence, the reference 'first sentence' is deleted.

g) The following paragraphs (9) and (10) are added:

(1) ' Weaners, breeders and fattening pigs with docked tails may be kept in the facility concerned only if:

1. the animal keeper for the facility
 - a) surveys and records the number of animals affected by tail or ear injuries and the time of the injuries;
 - b) at least every four months calculates and records on the basis of the survey referred to in letter (a), the percentage of animals affected by tail or ear injuries;
 - c) at least every four months carries out a risk analysis and assessment to identify the root causes of tail and ear-biting, taking into account the parameters listed in the second sentence, and record the results; and
 - d) on the basis of the results of the risk assessment referred to in letter (c), takes appropriate measures without delay to prevent tail or ear-biting, taking into account housing conditions and stocking density, and documents same; and
2. either the calculation referred to in point 1 letter (b) shows that more than five per cent of the animals are affected by tail or ear injuries, or the animals are kept as part of a reduction strategy in accordance with paragraph (10).

The risk analysis and assessment referred to in the first sentence point 1 letter (c) shall cover at least:

1. the manipulable material available to the animals;
2. the structure and cleanliness of the facility;
3. the temperature and air quality in the facility;
4. the state of health of the animals;

5. competition for feed, water and space between animals; and
6. animal nutrition.

The records referred to in the first sentence point 1 shall be drawn up without delay, kept in hard copy or electronically, retained for three years and presented to the competent authority upon request.

(2) The reduction strategy referred to in paragraph (9) first sentence point 2 is a strategy of the keeper for the facility concerned, which aims at steadily decreasing the percentage of kept animals with docked tails, taking into account the findings from the risk analysis and assessment in accordance with paragraph (9) first sentence point 1 letter (c). The reduction strategy shall include at least the duration and design of the individual reduction steps and the time when the respective reduction targets are reached. The keeper shall draw up the reduction strategy in hard copy or electronically, keep it up to date and present it to the competent authority upon request.'

10. In § 11a(1) first sentence point 1, the reference 'first sentence' is deleted.
11. § 11b is worded as follows:

'§ 11b

(1) It is prohibited to breed vertebrates or to modify them by means of biotechnological measures if, in the case of breeding, breeding-related knowledge, or in the case of modification, knowledge relating to modifications by means of biotechnological measures suggests that, as a result of the breeding or modification:

1. in the bred offspring, the biotechnologically modified animals themselves or their offspring, body parts or organs are genetically missing or unfit or deformed for species-appropriate use, causing pain, suffering or harm; or
2. the offspring
 - a) are affected by genetic behavioural disorders associated with suffering,
 - b) any species-appropriate contact with conspecifics resulting in pain or avoidable suffering or harm to themselves or a conspecific; or
 - c) the keeping of the offspring is only possible under pain or avoidable suffering or leads to harm".

(1a) Body parts or organs referred to in paragraph (1) point 1 which are missing, unfit or deformed for species-appropriate use may be associated with the regular or non-temporary occurrence, in particular, of one or more of the following symptoms:

1. breathing difficulties,
2. movement anomalies,
3. lameness,

4. anomalies of the skeletal system,
5. inflammation of the skin,
6. absence of hair, feathers or scales,
7. inflammation of the eyelid conjunctiva or cornea,
8. blindness,
9. forward displacement of the eyeball (exophthalmos),
10. entropion,
11. ectropion,
12. deafness,
13. neurological symptoms,
14. dentition malformations,
15. cranium malformations,
16. dysfunction of internal organs or the internal organ system,
17. body shapes for which there is a high probability that reproduction or birthing will not be possible naturally,
18. reduced life expectancy.

(1b) A vertebrate may only be used for breeding if, on the basis of breeding-related knowledge, including knowledge that can be obtained on the basis of appropriate and reasonable studies, there are no genetic disorders associated with pain, suffering or harm or modifications as referred to in paragraph (1) point 1 or 2, including in conjunction with paragraph (1a), in the animal itself. The first sentence shall apply, *mutatis mutandis*, if the genetic disorders or modifications were eliminated before the date of the breeding.

(1c) Breeding for the purpose of eliminating genetic disorders associated with pain, suffering or harm or modifications as referred to in paragraph (1), may be carried out with the presentation of an appropriate breeding plan that is to be submitted by the breeder to the authority upon request.

(2) The competent authority may order the sterilisation of vertebrates, if:

1. breeding-related knowledge or knowledge relating to modifications by means of biotechnological measures suggests that their offspring will have disorders or modifications within the meaning of paragraph (1), also in conjunction with paragraph (1a);
2. a vertebrate has been used for breeding contrary to paragraph (1b) or such use is directly imminent; or
3. a breeding plan as referred to in paragraph (1c) has not been presented on request or does not ensure the intended purpose

of breeding and this deficiency has not been remedied within a time limit set by the competent authority.

(3) Paragraphs (1) to (2) shall not apply to vertebrates which are modified by breeding or biotechnical measures and which are necessary for scientific or clinical purposes.

(3a) It is prohibited

1. to put on display vertebrates

a) Of the body or organs are missing for the use appropriate to the species or are unfit or deformed and as a result cause pain, suffering or damage,

b) painful congenital behavioural disturbances are suffered,

c) any species-appropriate contact with conspecifics resulting in pain or avoidable suffering or harm to themselves or a conspecific; or

d) the keeping of the offspring is only possible under pain or avoidable suffering or leads to harm,

2. to advertise with vertebrates or otherwise to visually put them on display in public with characteristics normally satisfying the conditions laid down in point 1, which may give rise to the impression that these characteristics are not such as to cause pain, suffering or harm.

(4) The Federal Ministry is authorised, by means of ordinance and with the assent of the Bundesrat,

1. to lay down in greater detail further clinical symptoms caused by genetic modifications or behavioural disorders over and above paragraph (1a);

2. to prohibit or restrict the breeding of certain species, breeds and lines of vertebrates where such breeding may lead to breaches of paragraph (1) or (1b).'

12. § 11c is amended as follows:

a) The current wording becomes paragraph (1) and after the word 'vertebrates' a comma and the words 'cephalopods and decapods' are inserted.

b) The following paragraphs (2) and (3) are added:

(1) ' Cephalopods and decapods intended for use as food shall not be supplied live to the final consumer.

(2) Anyone commercially breeding or trading in vertebrates that are not farm animals or horses shall not offer for sale or supply said vertebrates on roads, paths or open areas accessible to the public. This shall not apply to events on roads, paths or open areas accessible to the public for the implementation of which the operator has been granted an official permit pursuant to § 11(1) point 7 or 8 letter (d).'

13. After § 11c, the following § 11d and § 11e are inserted:

‘§ 11d

(1) The offering of live vertebrates for purchase on online platforms is only permitted, subject to paragraph (3), if the vendor provides their name and address to the operator of the online platform concerned and, if the animal is marked:

1. the alphanumeric code indicated by the implanted transponder of the animal (transponder number); or
2. any other marking on the basis of which the animal is clearly identifiable.

Subject to other legal provisions, the data referred to in the first sentence shall, by operators of online platforms established in Germany,

1. be retained for three years from the deletion of the offer by the vendor; and
2. be automatically deleted once the retention period has expired, where technically possible.

Operators of online platforms established in Germany shall ensure, by means of appropriate technical and organisational measures, that the data provided by the vendor in accordance with the first sentence can be transmitted to the competent authority. The operator of the online platform established in Germany shall, at the request of the competent authority, transmit the data referred to in the first sentence provided by the vendor to the authority within a period of time to be determined by the competent authority.

(2) If there are actual indications to suggest an activity that requires a permit pursuant to § 11(1) point 8 letter (a) or (b), in addition to the data provided by the vendor pursuant to paragraph (1), information on the number and content of the advertisements for live vertebrates being offered for purchase on online platforms may be requested from the operator of the online platform concerned.

(3) Offering live vertebrates for purchase on online platforms shall be prohibited if the vertebrates offered for purchase have characteristics:

1. as listed in § 11b(3a), or
2. have been treated contrary to the animal welfare requirements laid down in § 6(1) first sentence.

(4) The Federal Ministry is authorised to lay down, by means of ordinance with the assent of the Bundesrat, requirements for the trade in live vertebrates on online platforms insofar as this is necessary for animal welfare. In particular, an ordinance as referred to in the first sentence may specify, in particular:

1. the form and content of an advertisement for the trade in a live vertebrate on an online platform;
2. the record-keeping and registration obligations of a person placing an advertisement on an online platform for the trade in a live vertebrate.

§ 11e

(1) It is prohibited to put on display, exchange or offer for sale at animal fairs any vertebrate taken from the wild. The first sentence shall not apply if it can be guaranteed that the putting on display, exchanging or offering for sale at animal fairs involves no significant pain, suffering or harm to the vertebrate in question.

(2) Housing, cages, other containers and other facilities for accommodating vertebrates at animal fairs shall be provided with signs which indicate, in particular:

1. the German and scientific name,
2. the origin,
3. the sex,
4. the age,
5. if applicable, the species protection status,
6. information on special requirements for keeping the animal, in particular concerning the space needed when it is fully grown, and
7. information on feeding

the animal in question.

(3) Anyone exchanging or offering for sale animals at animal fairs shall ensure that when an animal is supplied to the respective future keeper, all the animal welfare, animal health and species protection documents necessary for the animal in question are handed over in full with the animal.'

14. § 13 is amended as follows:

a) After paragraph (1), the following paragraph (2) is inserted:

(1) ' Grassland and green spaces used for non-commercial purposes shall not be mown at dusk and during hours of darkness, unless appropriate measures are taken to prevent significant pain, suffering or harm to vertebrates found there.'

b) The current paragraphs (2) and (3) become paragraphs (3) and (4).

15. § 16 is amended as follows:

a) Paragraph (1) is amended as follows:

a%6) Sentence 1 is amended as follows:

a%7%7) In point 3 letter (a), the words '(1) second sentence subpara. 4' are replaced by the words 'paragraph (1) second sentence point 4'.

b%7%7) In point 4, the words '(1) first sentence' are replaced by the reference 'paragraph (1)'.

c%7%7) In point 7, the reference '(3)' is replaced by the reference 'paragraph (4)'.

b%6) In the second, fifth and sixth sentences, each instance of the words 'paragraph (1) first sentence 1' is replaced by the reference 'paragraph (1)'.

c%6) The following sentences are added:

'At least one on-the-spot inspection shall be carried out by the competent authority at every animal fair within the meaning of § 11(1) point 7 where the participation of commercially acting breeders, keepers or traders as vendors in accordance with § 11(1) point 8 letter (a) or (b) is expected. The inspection shall also cover the public roads, paths and open spaces adjacent to the animal fair.'

b) In the first sentence of paragraph (1a), the reference 'first sentence' is deleted.

c) After paragraph (1a), the following paragraph (1b) is inserted:

'(1b) Anyone organising an animal show in accordance with § 11(1) point 8d, an animal exhibition or any other event accessible to the public at which vertebrates are to be compared, examined or otherwise assessed shall notify the competent authority of this event early in accordance with the third and fourth sentences, at the latest four weeks before the start of the event. Notification is unnecessary if the event requires notification to that authority on the basis of another legal provision or a requirement imposed by the authorities. The notification shall be made in writing or electronically. The notification shall specify:

1. the type of event;
2. the type of animals to be shown;
3. the venue and time of the event;
4. the name and address of the person or organisation responsible for the event;
5. the expected number of animals to be put on display, where this information can be provided at the time of notification.

Any substantial change to this information shall be notified to the competent authority without delay.'

d) The following sentence is added to paragraph (2):

'Where the identity of the person required to provide the information referred to in the first sentence cannot be ascertained by any other means, in particular because they appear on online platforms without their name and address being mentioned, the authority may, for the purpose of identification, contact the person responsible for providing the information and express an interest in purchasing without disclosing its official identity.'

e) In the fourth sentence of paragraph (3), the word 'significant' is deleted.

f) The following sentence is added to paragraph (4):

'Statements within the meaning of the first sentence which are made in the context of an investigative measure pursuant to the second sentence of paragraph

(2) may be used in criminal proceedings or proceedings under the Regulatory Offences Act only with the consent of the person responsible for providing information.'

g) In the third sentence of paragraph (4a), the '(1)' is replaced by 'paragraph (1)'.

h) Paragraph (6) is amended as follows:

a%6) The first sentence is worded as follows:

'Personal data may be collected, stored and used only insofar as the collection, storage and use is necessary for the performance of tasks incumbent on the responsible body under this Act or under an ordinance issued on the basis of this Act.'

a%6) In the second sentence, a comma and the word 'storage' are inserted after the words 'data collection'.

b%6) The third and fourth sentences are worded as follows:

'The Federal Ministry is also authorised to lay down rules, by means of ordinance with the assent of the Bundesrat, on the establishment and keeping of registers from which the competent authorities can automatically retrieve the personal data necessary for the monitoring of

1. persons or associations of persons in accordance with § 11(1) point 5,
2. holdings in accordance with § 11(1) point 8 letter (d) with changing locations, and

prohibitions on the keeping and management of animals issued by the authorities pursuant to § 16a(1) second sentence point 3, or by the courts pursuant to § 20(1). Only the following personal data may be collected, stored and used in the registers referred to in the third sentence:

1. data for identifying and contacting
 - a) the holder of the permit pursuant to § 11(1) point 5,
 - b) the holder of the permit pursuant to § 11(1) point 8 letter (d) and the person responsible for the activity pursuant to paragraph (1a) second sentence point 2, and
 - c) the person to whom a prohibition on the keeping and management of animals issued by the authorities or courts applies,
 - d) the holding referred to in paragraph (1) first sentence point 4 in conjunction with § 11(1) point 5 and point 8 letter (d) and the owner of the holding,
2. the content of the permit referred to in § 11(1) point 5 and point 8 letter (d) and any ancillary provisions, as well as the address of the issuing authority, or the content of the prohibitions on the keeping and management of animals issued by the authorities or courts, and the address of the issuing authority or court,

3. persons or associations of persons in accordance with § 11(1) point 5 or holdings in accordance with § 11(1) point 8 letter (d) with changing locations, the results of the checks carried out and the names of the persons carrying out the checks,

4. enforceable orders and administrative enforcement measures issued on the basis of the checks referred to in point 3 and the extent to which they have been complied with, and

5. the irrevocable rejection of an application for the issue, withdrawal and revocation of a permit pursuant to § 11(1) point 5 and point 8 letter (d).'

16. § 16a is amended as follows:

a) Paragraph (1) second sentence is amended as follows:

a%6) In point 2, each instance of the word 'official' is replaced by the words 'employed or commissioned by the competent authority'.

b%6) In point 3, the reference 'or § 2b(3)' is inserted after the reference '§ 2a'.

b) In paragraph (3) point 2, each instance of the reference 'first sentence' is deleted.

17. § 16h is amended as follows:

a) The current wording becomes paragraph (1).

b) The following paragraph (2) is added:

(1) ' The Federal Ministry is responsible for communicating with the competent authorities of states which are neither Member States nor, without being a Member State, parties to the Agreement on the European Economic Area, and with international organisations. It may delegate this power to the Federal Office of Consumer Protection and Food Safety by means of ordinance without the assent of the Bundesrat.'

18. After §16j, the following § 16k to § 16m are inserted:

'§ 16k

The Federal Ministry is authorised to designate, by means of ordinance without the assent of the Bundesrat, the Federal Office of Consumer Protection and Food Safety, within the framework of the activities assigned to it by § 2(1) of the BVL Act, as the competent authority for implementing legal acts of the European Community or of the European Union, insofar as this is necessary for the uniform implementation of legal acts of the European Community or of the European Union.

§ 16l

(1) Anyone keeping cattle, pigs, sheep, goats or solipeds for commercial purposes, must without delay and permanently mark an animal of the species in question which has died or been killed and is not intended for human consump-

tion (carcass) with the registration number that has been allocated to their holding pursuant to the first sentence of § 26(2) of the Livestock Movement Ordinance, as published on 26 May 2020 (BGBl. I p. 1170) or in accordance with the second sentence of Article 93 of Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health (OJ L 84, 31.3.2016, p. 1; L 57, 3.3.2017, p. 65; L 84, 20.3.2020, p. 24; L 48, 11.2.2021, p. 3; L 224, 24.6.2021, p. 42; L 310, 1.12.2022, p. 18; L 2023/90182, 15.12.2023), as last amended by Delegated Regulation (EU) 2018/1629 (OJ L 272, 31.10.2018, p. 11).

(2) The obligation to mark the carcass referred to in paragraph (1) shall not apply where:

1. the carcass is already marked with another means of identification ensuring traceability to that holding; or
2. the killing of the animal has been mandated or ordered in accordance with animal health legislation.

(3) The Federal Ministry is authorised to issue, by means of ordinance with the assent of the Bundesrat, rules on the marking of the carcass and on the manner and implementation of the marking of the carcass insofar as this is necessary with regard to animal welfare for the traceability of the carcass to the holding where the animal died or was killed.

(4) In all other respects, the right to the animal by-products remains unaffected.

§ 16m

(1) For the purpose of monitoring compliance with the provisions of this Act and with ordinances issued on the basis of this Act in holdings where cattle, pigs, sheep, goats and solipeds are kept for commercial purposes, the competent authority can, in facilities that process animal by-products, without prejudice to the provisions of Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC (OJ L 95, 7.4.2017, p. 1; L 137, 24.5.2017, 40; L 48, 21.2.2018, p. 44; L 322, 18.12.2018, p. 85), as last amended by Regulation (EU) 2021/1756 (OJ L 357, 8.10.2021, p. 27), during the business or operating hours of those facilities

1. enter the land, business premises, commercial buildings and means of transport of these facilities and, for the purpose of documentation, take pictures of carcasses;

2. examine carcasses, take samples from carcasses and seize and transport carcasses to an establishment for further examination; and
3. to the extent necessary for the traceability of a carcass to the holding where the animal died or killed;
 - a) inspect business documents; and
 - b) collect, store and use the following:
 - a%6) duplicates or photocopies of business documents; and
 - b%6) printouts or copies of data carriers on which the business documents are stored.

Where duplicates, photocopies, printouts and copies made in accordance with the first sentence point 3 contain personal data, the competent authority may retain and use them or, in the case of electronic storage, collect, store and use them to the extent and for as long as this is necessary for the purpose referred to in the first sentence point 3, but for no longer than three years from the date of commencement of retention or, in the case of electronic storage, collection. Where the personal data are no longer necessary for the purpose referred to in the first sentence point 3, the duplicates, photocopies, printouts and copies shall be destroyed without delay, no later than at the end of the period specified in the second sentence or, in the case of electronic storage, shall be erased by automated means. The period specified in the second sentence shall not apply if longer retention is necessary in the context of administrative, regulatory or criminal proceedings. Once a final ruling has been made in the respective administrative, regulatory or criminal proceedings, the records shall be erased at the end of the day on which the ruling takes effect in law.

(2) The operator of a facility where animal by-products are processed shall, without prejudice to the provisions of Regulation (EU) 2017/625,

1. assist the persons tasked with the monitoring and, on request, in particular:
 - a) identify the land, business premises, commercial buildings, containers and means of transport of the facility;
 - b) grant access to the land, business premises and commercial buildings of the facility and open the containers and means of transport of the facility;
 - c) unload the carcasses from the means of transport;
 - d) during the inspection, assist in the examination of individual carcasses and in the taking and securing of samples; and
 - e) provide the business documents to the extent necessary for the traceability of the carcass to the holding where the animal died or was killed; and
2. provide to the persons tasked with the monitoring, at their request, the carcasses for examination.

The obligation to present business documents as part of the obligations under the first sentence point 1 letter (e) also includes the obligation to disclose personal data where this is necessary for the purpose specified in paragraph (1) first sentence point 3.

(3) If one or more of the measures referred to in the first sentence of paragraph (1) have been carried out in a facility processing animal by-products, the operator of that facility may request compensation for the expenditure incurred as a result of those measures in accordance with the relevant provisions of Land law on claims for non-violators. The Länder shall determine who will bear the costs of the compensation referred to in the first sentence.

(4) In all other respects, the right to the animal by-products remains unaffected.'

19. The following Section Eleven is inserted after § 16m:

'Section Eleven

Federal animal welfare officer

§ 16n

(1) The Federal Government shall appoint a federal animal welfare officer. Except in the case of dismissal, the period of office shall end with the convening of a new Bundestag. Reappointment of the same person is permitted.

(2) The remit of the appointed person is to provide advice and support on the further development of animal welfare in projects of the Federal Government and the Federal Ministries, to promote cooperation and interaction between the Federal Government, the Länder and associations in the area of animal welfare and to improve communication with citizens on animal welfare matters. The appointed person shall draw up and publish an annual activity report.

(3) The appointed person shall be provided with the necessary staff and equipment for performing their remit under paragraph (2). For the purpose of carrying out the remit under paragraph (2), the Federal Ministries shall involve the appointed person in all legislative, regulatory and other important projects insofar as these involve or touch on animal welfare issues. All federal authorities and other public bodies in the federal sphere shall assist the appointed person in the performance of their remit

20. The current Section Eleven becomes Section Twelve.

21. § 17 is amended as follows:

- a) The wording becomes paragraph (1).
- b) The following paragraphs (2) to (4) are added:

(1) ' Anyone persistently repeating

- 1. an act referred to in paragraph (1)
- 2. committing it for profit or

3. committing it in relation to a large number of vertebrates

shall be sentenced to imprisonment of up to five years or a fine.

(2) The attempt itself is punishable by law.

(3) If, in the cases referred to in paragraph (1) point 1 or point 2 letter (b), the perpetrator is reckless, the penalty shall be imprisonment of up to one year or a fine.'

22. § 18 is amended as follows:

a) Paragraph (1) is amended as follows:

a%6) point 3 is worded as follows:

1. ' acts contrary to an ordinance issued in accordance with

a) § 2a, § 2b(3) or § 9(3) point 1 or 3,

a) § 4b, § 4d(7) second sentence, § 6(4), § 8a(4) or (5), § 9(5) second sentence, also in conjunction with § 6(1a) first sentence point 2 letter (b), or § 9(6) second sentence, § 10(2) second sentence, § 11(2a) or (3), § 11a(2), (3) third sentence or (5), § 11d(4) second sentence, § 12(2) first sentence points 1 to 3 or 6, § 13(3) or (4), § 13a(1), (2) or (5), § 13b third sentence, also in conjunction with the fifth sentence, § 14(2), § 16(5) first sentence, § 16c or § 16l(3),

b) § 5(4), § 9(1), § 11b(4) point 2, § 12(2) first sentence point 4 or 5,

c) § 9(2), (3) point 2, (4) second sentence or (6) second sentence, in each case also in conjunction with § 6(1a) first sentence point 2 letter (b),

d) § 9(4) first sentence point 1 or 2 or in accordance with § 9(4) first sentence point 3, also in conjunction with § 6(1a) first sentence point 2 letter (b),

or an enforceable order issued on the basis of such ordinance, insofar as the ordinance refers to this provision on fines for a specific offence,'

b%6) After point 3, the following point 3a is inserted:

'3a. keeps an animal tethered contrary to the first sentence of § 2b(1),'.

c%6) In point 5, the words 'para. (1) a vertebrate' are replaced by the words 'paragraph (1), also in conjunction with paragraph (4), a vertebrate, cephalopod or decapod'.

d%6) After point 6a, the following point 6b is inserted:

'6b. contrary to the second sentence of § 4d(4) fails to provide a recording for retrieval, fails to do so correctly or fails to do so in full,'.

e%6) The current point 20 becomes point 19 and the reference '§ 11(1) first sentence' is replaced by the reference '§ 11(1)'.

f%6) After point 19, the following point 20 is inserted:

1. 'contrary to § 11(4) first sentence keeps or puts on display an animal,'.

g%6) After point 20b, the following point 21 is inserted:

2. ' contrary to § 11(9) first sentence keeps a pig referred to therein,'.

h%6) After point 22, the following points 22a and 22b are inserted:

'22a. contrary to § 11b(1b), uses a vertebrate for breeding,

22b. contrary to § 11b(3a) puts a vertebrate on display or advertises with it,'.

i%6) In point 23, the words 'a vertebrate to children or adolescents up to the age of 16' are replaced by the words 'paragraph (1) or (2) a vertebrate, cephalopod or decapod'.

j%6) point 24 is replaced by the following points 24 to 24b:

1. ' contrary to § 11d(1) first sentence, fails to provide data, fails to do so in full or fails to do so correctly,

24a. contrary to § 11d(1) fourth sentence, fails to transmit data, fails to do so in full, correctly, in the prescribed manner or in good time,

24b. contrary to § 11d(3), offers a vertebrate for purchase,'.

k%6) In point 25a, the reference 'para. (1a) first sentence' is replaced by the words 'paragraph (1a) first sentence or paragraph (1b) first sentence'.

l%6) In point 26, the reference '§ 16(2)' is replaced by the words '§ 16(2) first sentence'.

m%6) Point 27 is worded as follows:

1. ' contrary to § 16l(1), fails to mark an animal, fails to do so correctly, in full, in the prescribed manner or in good time.'

b) Paragraph (3) is worded as follows:

(1) ' A regulatory offence is deemed to have been committed by anyone who, intentionally or negligently

1. acts contrary to a directly applicable provision in legal acts of the European Community or of the European Union, the content of which is equivalent to a requirement or prohibition referred to in paragraph (1)

a) point 4, 8, 12, 17 or 22,

b) point 5, 6, 7, 11 or 25,

c) point 9a, 10 or 25a, or

d) point 21a or 23

insofar as an ordinance in accordance with § 18a refers to this provision on fines for a specific offence, or

2. acts contrary to a directly applicable provision in legal acts of the European Community or of the European Union, the content of which is equivalent to a rule with regard to which the provisions of paragraph (1) point 3

- a) letter (a) or (d),
- b) letter (b),
- c) letter (c),
- d) letter (e),

provide authorisation, insofar as an ordinance in accordance with § 18a refers to this provision on fines for a specific offence.'

c) Paragraph (4) is worded as follows:

(1) ' In the cases referred to in paragraph (1) points 1 and 3 letter (a), (d) and (e), point 3a, 4 to 6a, 7, 8, 11, 12, 17, 20, 20a, 21, 22 to 22b and 25, paragraph (2) and paragraph (3) point 1 letter (a) and (b) and point 2 letter (a) and (d), the regulatory offence is punishable by a fine of up to fifty thousand euros and in all other cases by a fine of up to ten thousand euros.'

23. § 18a is worded as follows:

'§ 18a

The Federal Ministry is authorised, insofar as is necessary for the enforcement of legal acts of the European Community or of the European Union, to specify, by means of ordinance without the assent of the Bundesrat, the acts which may be punished as a regulatory offence under § 18(3).'

24. § 19 is worded as follows

§ 1'

If a criminal offence under § 17, § 20(3) or §20a(3) or a regulatory offence under § 18(1) point 1 or 3 letter (a), (c) or (d), point 4, 8, 10a, 12, 17, 20a, 21a, 22 or 23 or (3) point 1 letter (a) or (c) or point 2 letter (a) or (c) has been committed, then

- 1. animals and objects to which the criminal or regulatory offence relates, or
- 2. animals and objects produced as a result of the criminal or regulatory offence or used or intended for its commission or preparation

can be confiscated. § 74a of the German Criminal Code and § 23 of the Regulatory Offences Act shall apply.'

25. The current Section Twelve becomes Section Thirteen.

26. § 21 is amended as follows:

a) Paragraphs (1) to (2) are replaced by the following paragraphs (1) to (3f):

(1) ' Until an ordinance pursuant to § 2b(2) or (3) is issued, provisions adopted on the basis of § 2a(1) point 1 or 2 in the version in force until the end of ...[insert: Date of the day before the entry into force of this amending Act] governing the keeping of animals of a particular species or animals for a specific purpose by means of tethering or requirements on tethering devices, in conjunction with § 18(1) point 3 letter (a) and (4) in the version in force until the end of ... [insert: Date of the day before the entry into force of this amending Act] shall continue to apply.

(1a) Until the end of ... [insert: Day and month of entry into force of this amending Act and the tenth year following the entry into force], by way of derogation from the first sentence of § 2b(1), cattle over six months of age may continue to be kept tethered, provided that the keeping complies with the requirements of § 2 also in conjunction an ordinance issued on the basis of § 2a(1) point 1 or 2 in the version in force until the end of ... [insert: Date of the day before the entry into force of this amending Act]. After the end of... [insert: Day and month of entry into force of this amending Act and the tenth year following the entry into force], by way of derogation from the first sentence of § 2b(1), cattle over six months of age may be kept tethered, until an ordinance pursuant to § 2b(2) or (3) is issued, in agricultural holdings with no more than 50 cattle over six months of age, if:

1. it is not possible to keep the cattle in groups whose size meets their behavioural needs, provided that during the grazing season the animals have access to pasture and have access to areas in the open air at least twice a week if grazing is not possible; and
2. tethered keeping was already undertaken in the facility in question before... [insert: Date of entry into force of this amending Act].

(1b) Until an ordinance pursuant to § 2b(2) or (3) is issued, by way of derogation from the first sentence of § 2b(1), birds of prey may be kept tethered if:

1. the animals
 - a) have been trained for free flight and are regularly used for free flight; or
 - b) are being trained for free flight and are to be regularly used for free flight;
2. the tethering device provides sufficient possibilities for flight; and
3. the tethering causes no pain, harm or significant suffering in the individual case.

(1) Until the end of... [insert: Day and month of the day before the entry into force specified in Article 4 of this amending Act and the third year following entry into force], by way of derogation from the third sentence of § 4(1a) in conjunction with the first sentence, persons who regularly stun fish for the purpose of killing or kill fish on a professional or commercial basis shall not be required to provide the competent authority with proof of competence if the fish are stunned for the pur-

pose of killing or killed in the presence of an inspector and the inspector provides proof of competence.

(3) § 4(4) shall apply from... [insert: Day and month of entry into force specified in Article 4 of this amending Act and the year of the third year following entry into force].

(3a) § 4d shall apply from... [insert: Day and month of entry into force specified in Article 4 of this amending Act and the year following entry into force].

(3b) Until the end of... [insert: Day and month of entry into force specified in Article 4 of this amending Act and the year following entry into force], by way of derogation from the first sentence of § 5(1), anaesthesia is not necessary for de-horning or preventing horn growth in calves under six weeks of age. In the case referred to in the first sentence, the fifth sentence of § 5(1) shall apply, *mutatis mutandis*.

(3c) Until the end of... [insert: Day and month of the day before the entry into force specified in Article 4 of this amending Act and the third year following entry into force], by way of derogation from the first sentence of § 5(1), anaesthesia shall not be required for the castration of male cattle under four weeks of age, provided no finding of abnormal anatomical characteristics is made. In cases referred to in the first sentence, the fifth sentence of § 5(1) shall apply, *mutatis mutandis*.

(3d) Until the end of... [insert: Day and month of the day before the entry into force specified in Article 4 of this Act and the eighth year following entry into force specified in Article 4 of this amending Act], § 5(3) point 4 in conjunction with § 6(1) second sentence point 3, (2) and (5) in the version in force until [insert: Date of entry into force specified in Article 4 of this Act] shall continue to apply.

(3e) Until the end of... [insert: Day and month of promulgation of this amending Act and the year following its promulgation], by way of derogation from § 6(1) second sentence point 2d letter (c), the declaration referred to therein is not necessary for implementation of the intervention pursuant to § 6(1) second sentence point 2d, if the intervention is essential in the individual case for the intended use of the animal with regard to the welfare of the animal and the keeper can credibly demonstrate this to the competent authority on request.

(3f) Until the end of... [insert: Day and month of the day of the entry into force of this Act and the third year following entry into force specified in Article 4 of this amending Act], § 6(3) first sentence point 3 in conjunction with paragraph (2) in the version in force until ... [insert: Date of entry into force specified in Article 4 of this Act] shall continue to apply.'

b) In paragraph (4) first sentence and paragraph (4a), the reference 'first sentence' is deleted in each case.

c) Paragraph (6) is worded as follows:

(1) ' Until an ordinance pursuant to § 11(2) first sentence point 1 is issued, the application for a permit pursuant to § 11(1) point 7 shall specify whether the participation of commercial breeders, keepers or traders in accordance with § 11(1) point 8 letter (a) and (b) is intended.'

d) After paragraph (6a), the following paragraphs (6b) to (6e) are inserted:

'(6b) § 11(4) first sentence shall not apply to animals which, prior to ... [insert: Date of entry into force specified in Article 4 of this amending Act] are already kept or put on display at changing locations.

(6c) § 11(9) first sentence point 2 shall not apply to animals which are already kept prior to ... [insert: Date of entry into force specified in Article 4 of this amending Act].

(6d) § 11b(1c) and (2) point 3 shall no longer apply from ... [insert: Day and month of entry into force specified in Article 4 of this amending Act and the fifteenth year following entry into force].

(6e) § 11c(2) shall apply from... [insert: Day and month of entry into force specified in Article 4 of this amending Act and the year following entry into force].'

Article 2

Amendment to the Animal Products Trade Prohibition Act

In the first sentence of § 4 of the Animal Products Trade Prohibition Act of 8 December 2008 (BGBl. I p. 2394), last amended by Article 2(24) of the Act of 20 December 2022 (BGBl. I p. 2752), the comma and the words 'excluding sheep and goats' are deleted after the word 'mammal'.

Article 3

Publication authorisation

The Federal Ministry of Food and Agriculture may publish the text of the Animal Welfare Act in the version in force as of the entry into force of this Act in the Federal Gazette.

Article 4

Entry into force

This Act shall enter into force on ... [insert: First day of the third quarter following promulgation].

Explanatory statement

A. General Part

I. Objective of and need for the provisions

In 2002, animal welfare was enshrined as a state aim in the Basic Law (Grundgesetz, GG). This amendment to the Basic Law is to be seen as a call on the legislature, executive and judiciary to safeguard animal welfare as a key interest protected by the constitution. Since then, animal welfare legislation has been amended, added to and brought in line with the current state of knowledge a number of times. However, application of the provisions of the Animal Welfare Act shows that there is still a need for change in various areas. This Act amending the Animal Welfare Act closes legislative and enforcement gaps concerning animal welfare and brings the existing animal welfare provisions in line with current scientific knowledge. The aim is to comprehensively reinforce animal welfare.

II. Main content of the draft

The present Act amending the Animal Welfare Act focuses on measures concerning various aspects of animal handling, which are mainly aimed at achieving the following improvements:

- The tethered keeping of animals significantly restricts species-appropriate behaviours. This can often lead to significant pain, suffering and/or harm to the animals concerned. In particular, restricted movement is linked to a high risk of illness, injury and behavioural disorders. It is therefore generally prohibited to keep animals tethered.
- The carrying out of non-curative interventions, some of which are performed without anaesthetic, can cause significant pain, suffering or harm to the animals concerned. For some interventions, such as tail docking in lambs, suitable alternatives to amputation are now available. As regards other interventions, such as the dehorning of calves, there is an appropriate alternative, namely using local anaesthetic and painkillers during the intervention, which significantly reduces the stress on the animals and also takes account of practicability. The interventions in question or their performance without anaesthetic are therefore no longer permitted.
- Online trade in pet animals provides a platform for fraudulent and criminal activities by vendors. For example, animals are often offered without information or with incorrect information and interested buyers are deceived. Such cases pose problems for animal welfare, animal health and consumer protection. In this respect, online trade encourages the analogue illegal trade in animals by providing the possibility of offering animals to a wide audience while remaining anonymous. Therefore, requirements for offering vertebrates online are being laid down to ensure that the competent authorities can trace an animal back to the respective vendor and to improve the ability to run checks on the vendor.
- Cruel breeding can take very different forms and manifest itself in very different disease patterns and can cause significant pain, suffering or harm to the animals concerned. A ban on exhibiting prevents animals affected by cruel breeding from being presented to an audience. This will reduce the demand for animals with cruel breeding characteristics. A ban on exhibiting vertebrates with cruel breeding

characteristics is being added to the ban on cruel breeding in the Animal Welfare Act. In addition, a non-exhaustive list of possible symptoms of cruel breeding is being added.

- Animals are to be slaughtered in such a way that they are devoid of consciousness and sensation during the period of time between stunning and death. Lack of or inadequate stunning can cause considerable pain and suffering to the animals. Compliance with these requirements is to be checked and ensured, in particular by means of appropriate controls by the competent authorities. Video recordings in slaughterhouses significantly improve possibilities for monitoring by the competent authorities. Operators of slaughterhouses are therefore required to record operations that are relevant to animal welfare at the slaughterhouse.
- Keeping and putting on display certain animals of wild species in changing locations raises systemic animal welfare concerns which cannot be eliminated, given the nature of the travelling holding, by changes in housing conditions or transport conditions, and therefore a ban on keeping or putting on display at changing locations is necessary for animal welfare reasons.
- In order to ensure more effective penalisation of offences against animals, the scope of penalties for mistreatment and killing of animals is being significantly increased in certain cases. Qualifying elements are being added, which must result in a higher penalty due to their increased level of severity. An attempt to mistreat or kill an animal is also being criminalised.

In addition, the amendments and additions to the Animal Welfare Act and the Animal Products Trade Prohibition Act cover the following main points:

- Certain rules on stunning and killing are being extended to include decapods and cephalopods. Competence requirements for the stunning and killing of fish, decapods and cephalopods are also being added.
- The post of federal animal welfare officer is being enshrined in the Animal Welfare Act.
- The supply of heavily pregnant sheep and goats for slaughter is being prohibited.
- The possibility is being established for the competent authorities to anonymously contact vendors for the purpose of identifying suspicious animal vendors.

In addition, enabling provisions are being established and/or added to, which authorise the Federal Ministry of Food and Agriculture to lay down specific rules for animal welfare in the following areas:

- Requirements for trade in live animals, in particular for the offering of live vertebrates online.
- Rules on the establishment and keeping of a nationwide register for the monitoring of prohibitions on the keeping and management of animals and a register of persons and associations of persons requiring permits.
- Introduction of mandatory marking and registration of dogs and cats.
- The existing authorisation to delegate tasks to the Federal Office of Consumer Protection and Food Safety (BVL) is being extended.

III. Alternatives

This Act amending the Animal Welfare Act closes legislative and enforcement gaps concerning animal welfare and brings the existing animal welfare provisions in line with current scientific knowledge. There are no alternatives to the statutory provisions that have been chosen. For example, the obligation of video surveillance at slaughterhouses or the ability to carry out official controls in plants processing animal by-products is necessary in order to be able to effectively identify breaches of animal welfare law. Alternative statutory regulations to the provisions chosen were examined, but they would not achieve the regulatory objectives. For example, the mandatory use of anaesthetic during the dehorning of cattle that is mandatory as a result of the amendment cannot be carried out by persons other than a veterinarian, as proper use of local anaesthetic requires veterinary knowledge and skills. There are therefore no equally suitable alternatives to this Act amending the Animal Welfare Act.

As far as possible, exceptions and grandfathering provisions for small and medium-sized enterprises have been included in § 4d(2) or § 21(1a), partially limiting the cost of conversion. The provision in § 21(1a) makes it possible for holdings already practising the tethered keeping of cattle to continue doing so seasonally in compliance with the conditions set out therein. Depending on the individual circumstances, these holdings may incur costs, which are generally lower than the costs they would incur if, going forward, they were to keep animals with no tethering whatsoever.

IV. Legislative powers

The Federal Government's legislative power to make the amendments contained in the Act derives from Article 74(1) point 20 of the Basic Law (animal welfare, the law of food products including animals used in their production). The Federal Government's legislative power to make the necessary amendments to criminal law and fine-related provisions derives from Article 74(1) point 1 of the Basic Law (criminal law).

In the present case, federal legislation within the meaning of Article 72(2) of the Basic Law is necessary in order to preserve legal and economic unity in the national interest.

Uniform rules on animal welfare already exist nationwide. The draft Act amends and adds to these existing rules, which have been adopted in accordance with powers conferred. Legislative power under Article 72(2) of the Basic Law also exists to amend and add to these provisions. The amendments to § 5 and § 6 of the Animal Welfare Act concerning 'non-curative interventions' require uniform regulation at national level, since, on the one hand, these interventions must be subject to the same high level of animal welfare across all Länder and, on the other hand, the rules must apply equally to all economic operators. With regard to the existing rules that have also been amended and added to, differences in the level of welfare to the detriment of animals are also unacceptable in light of animal welfare being a state aim. In addition, with regard to other amended rules, all economic operators in Germany should encounter equal conditions for pursuing their activities.

With regard to the introduction of the obligation of video surveillance in slaughterhouses above a certain size and other new rules, legislative power also derives from Article 72(2) of the Basic Law. The animal welfare concerns addressed by these provisions occur nationwide and therefore, for reasons of animal welfare, national legislation is necessary. Moreover, different rules at Land level would lead to unequal conditions of competition between economic operators depending on where in Germany the parties were carrying out their activities. All economic operators should encounter the same criteria and conditions for their activities throughout Germany.

V. Compatibility with European Union law and international treaties

The draft Act is compatible with European Union legislation and treaties under international law concluded by the Federal Republic of Germany.

VI. Impact of the legislation

1. Legal and administrative simplification

No provisions are being simplified or repealed.

2. Sustainability aspects

A sustainability assessment has been carried out in accordance with § 44(1)(4), of the Joint Rules of Procedure of the Federal Ministries (GGO). The present rules serve to improve animal welfare and are sustainable within the meaning of the German Sustainability Strategy (DNS), as they support the achievement of Sustainable Development Goals 2 'End hunger, achieve food security and better nutrition and promote sustainable agriculture' and 12 'Ensure sustainable consumption and production patterns' and, in particular, support the achievement of sustainability indicator 12.1.b 'Increase the proportion of sustainable production'. It also takes into account the principle of sustainable development No. 4.c: Sustainable agriculture and fisheries must be productive, competitive, socially and environmentally sound; they must protect and conserve biodiversity, soils and waters in particular and take into account the requirements of livestock husbandry in a way that is fair to the animals and safeguards consumer protection, particularly concerning health matters. These sustainability aspects are supported by, inter alia, provisions to ban tethered keeping and to reduce non-curative interventions that are important for livestock farming as an integral part of ethical and sustainable food production.

3. Budgetary expenditure exclusive of compliance costs

The draft does not result in any budgetary expenditure exclusive of compliance costs.

4. Compliance costs

4.1. Compliance costs for citizens

Citizens will not incur any additional compliance costs.

4.2. Compliance costs for the economy

The estimate of the compliance costs for the economy for the individual requirements is presented below.

Requirement 4.2.1 (): Ban on the tethered keeping of animals; § 2b Animal Welfare Act

Change in annual compliance costs:

Number of cases	Time expenditure per case (in minutes)	Hourly wage (in EUR)	Material costs per (in EUR)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
Holdings practising only tethered keeping					
2 611			14 470		37 781

(new construction of loose housing; incl. depreciation for wear and tear)					
Change in compliance costs (in thousands of EUR)				37 781	

One-time compliance costs:

Number of cases	Time expenditure per case (in minutes)	Hourly wage (in EUR)	Material costs per case (in EUR)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
1) Holdings with combined tethered keeping and grazing					
10 896 (conversion into open yard)			12 060		131 400
2) Holdings practising only tethered keeping					
5 221 (enabling grazing combined with conversion into open yard)			12 060		62 965
3 481 (conversion into loose housing)			201 000		699 680
Compliance costs (in thousands of EUR); 1) + 2)				894 052	

§ 2b lays down a general ban on the tethered keeping of animals. In individual cases, tethering remains permissible for a specific purpose. In addition, § 21(1a) contains a transitional provision permitting the tethered keeping of cattle in existing holdings under certain conditions. In practice, tethered keeping is still used for cattle (Annex 2, Part 2, 1.7.5 of Regulation (EU) 2018/848 prohibits the tethering of animals, but it is possible in cattle holdings with small herds). Restrictions are in place under § 5(1) point 3 in conjunction with the second sentence of the Ordinance on the Welfare of Farm Animals (Tier-SchNutzTV) when keeping calves.

In 2020, there were around 1.1 million cattle in tethered keeping in Germany in around 28 300 agricultural holdings. The average number of tethered cattle in one holding is thus 40.2 animals. Of the approximately 28 300 holdings, around 38.5 per cent operate a combination of tethered keeping and grazing, and around 61.5 per cent practise only tethered keeping.

It is assumed that the approximately 10 896 agricultural holdings, which already combine tethered keeping and grazing, can extend grazing to a sufficient extent during the grazing season in order to meet the new requirements. Holdings must also provide areas in the open air for movement outside the grazing season. If such areas do not already exist, an open yard can be constructed, with an average cost of around EUR 300 per animal space.¹ Given that an average holding keeps 40.2 tethered cattle, the one-off costs for

¹ See Thünen Institute of Farm Economics, Folgenabschätzung eines Verbots der ganzjährigen Anbindehaltung von Milchkühen. Thünen Working Paper 111, Braunschweig, 2018, p. 48; also Simon J., Bau von Milchviehställen im Fokus von Tierwohl, Kosten und Machbarkeit, in: Die bayerische Milchwirtschaft im freien Wettbewerb, LfL annual conference. Grub, 22.10.2015. Bayerische Landesanstalt für

conversion into an open yard are estimated at around EUR 12 060 per holding (conversion costs of EUR 300 per animal x 40.2 animals), i.e. around EUR 131 400 000 for 10 896 holdings.

The following section looks at the approximately 17 405 agricultural holdings that have so far practised only tethered keeping. According to a study by the Thünen Institute of Farm Economics² in order to assess the impact of a ban on year-round tethered keeping of dairy cows, holdings have various options to make their farming methods more animal-friendly: Provision of grazing, but in accordance with § 21(1a) only in combination with conversion into open yard, conversion of the tethering shed into loose housing and construction of new loose housing. These alternatives depend on the size of the herd, the conditions on site, the structures of the old buildings and differences in the planning permission procedure. The respective investment costs vary between EUR 300 and EUR 15 000 per animal depending on the alternative and operational circumstances. In particular, it is important whether and to what extent existing housing and infrastructure can continue to be used and how extensive the work is that has to be carried out. The cost of new construction solutions is, on average, higher than the cost of a conversion solution. It can be assumed that holdings will choose the solution that is most cost-effective for them. It can therefore be assumed that, as a general rule, conversion solutions will be chosen, provided that the existing structural conditions allow for conversion. It should be noted that only new construction is possible for holdings in a restricted location which, for this reason, cannot implement areas in the open air or conversions.

The study by the Thünen Institute has also been used for outlining further figures.³ On the basis of expert surveys, the study expects 10 per cent of agricultural holdings with tethered keeping (1 740 of the above-mentioned 17 405 holdings) will provide grazing in future for their animals. In addition, in order to meet the requirements of § 21(1a) (access to grazing in summer and access to areas in the open air outside the grazing season twice a week, which can be made possible by access to an open yard), conversion into an open yard is also necessary for these holdings. A further 20 per cent would carry out a conversion into an open yard (3 481 holdings with an average conversion cost of EUR 300 per animal) or into loose housing (3 481 holdings with an average conversion cost of EUR 5 000 per animal). Since the conversion into an open yard without additional grazing is not sufficient, these holdings must either allow access to pasture or, if this is structurally impossible, undertake the conversion into loose housing. If neither option is feasible, holdings could abandon farming in the longer term. 15 per cent of agricultural holdings plan to build new loose housing (2 611 holdings with an average construction cost of EUR 9 000 per animal). 35 per cent (6 092) of holdings can neither introduce grazing nor carry out construction measures and would abandon farming in the longer term.

For the purposes of estimating costs, only those agricultural holdings currently practising only tethered keeping, which intend to undertake construction measures, are taken into account. If construction of new loose housing is necessary, a holding incurs an estimated EUR 361 800 in material costs, given that the average number of cattle kept tethered is 40.2 (EUR 9 000 per animal x 40.2 animals). On the basis of the methodology used here, costs arising from new construction measures are counted as ongoing compliance costs, with depreciation at the wear and tear rate laid down by the Federal Ministry of Finance (BMF). The normal service life for solid animal housing is 25 years according to the Table for wear and tear depreciation for the 'Agriculture and Animal Breeding' sector (see item 2.6.20.1). As a result, the annual compliance costs amount to approximately EUR 14 470 per holding (EUR 361 800/25 years) and an estimated EUR 37 781 000 in material costs

Landwirtschaft (LfL) series, Freising-Weihenstephan, pp. 15-31.

² Thünen Institute of Farm Economics, Folgenabschätzung eines Verbots der ganzjährigen Anbindehaltung von Milchkühen. Thünen Working Paper 111, Braunschweig, 2018, p. 29 et seq.

³ Thünen Institute of Farm Economics, Folgenabschätzung eines Verbots der ganzjährigen Anbindehaltung von Milchkühen, *ibid.* p. 48.

for all 2 611 agricultural holdings which have hitherto only used tethered holding and intend to build new housing.

The cost of conversion into an open yard is estimated at around EUR 12 060 per holding (conversion costs of EUR 300 per animal x 40.2 animals), i.e. around EUR 62 965 000 for 5 221 holdings. The additional grazing requirement may entail both one-off and annual costs for fences, additional work and a higher need for land. The costs of grazing vary greatly from one holding to another and therefore no valid assumptions can be made in this regard. The cost of conversion into loose housing amount to approximately EUR 201 000 per holding (conversion costs of EUR 5 000 per animal x 40.2 animals) and thus around EUR 699 680 000 for 3 481 holdings. In total, the estimated total cost for holdings which have hitherto only used tethered keeping amounts to approximately EUR 762 646 000 in material costs resulting from the necessary measures to convert installations, buildings and infrastructure; conversion costs are considered to be one-off compliance costs.

In addition to the costs of EUR 131 400 000 for conversion measures in the 10 896 holdings with combined grazing, total one-off compliance costs are estimated at around EUR 894 000 000 for agricultural holdings with tethered keeping.

Requirement 4.2.2 (): Proof of competence for the professional or commercial stunning and killing of animals; § 4(1a) third sentence in conjunction with paragraph (4) Animal Welfare Act

Change in annual compliance costs:

Number of cases	Time expenditure per case (in minutes)	Hourly wage (in EUR)	Material costs per case (in EUR)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
215	4	36.00	300	0	65
Change in compliance costs (in thousands of EUR)				65	

One-time compliance costs:

Number of cases	Time expenditure per case (in minutes)	Hourly wage (in EUR)	Material costs per case (in EUR)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
4 300	4	36.00	300	10	1 290
Compliance costs (in thousands of EUR)				1 300	

Persons who regularly stun or kill animals on a professional or commercial basis shall provide the competent authority with proof of competence. As regards fish, the exception has so far been that persons carrying out stunning or killing were not required to provide proof of competence if these activities were carried out in the presence of an inspector holding proof of competence. This exemption is now limited to cases in which fish – and, on the basis of § 4(4), cephalopods and decapods – are stunned or killed on board fishing vessels directly after being caught. In such cases, no stunning or active killing generally takes place and it would therefore be disproportionate to require proofs of competence to the same extent as in the case of land-based slaughter. In addition, the provisions of § 4(1), (1a) first, third and fourth sentences and (3) first sentence will also apply to cephalopods and decapods in future. In this respect, they shall be regarded as being equivalent to vertebrates when it comes to the requirements for stunning and killing and the competence required for that purpose.

As the amendment is a new requirement, it can be assumed that in future most people will have to provide proof of competence. This potentially affects aquaculture establishments

that stun or kill fish, cephalopods or decapods. According to the Federal Statistical Office, there were 2 150 aquaculture establishments producing fish or crustaceans in 2022. It is assumed that two persons per establishment will have to provide new proof once. It is also assumed that proof of competence will have to be provided every year in 10 per cent of the 2 150 establishments as a result of staff turnover. In addition, food shops and restaurants may also be affected by the change. There is no reliable information on this. However, it is assumed that, due to the small number of cases, the compliance costs in this respect will be negligible overall (cf. requirement 4.2.13).

A time of four minutes per case is assumed to be required for providing proof of competence (fill in, copy and archive the form). The wage rate corresponds to a high skill level in Sector A Agriculture, Forestry and Fisheries (EUR 36). The training costs are assumed to be EUR 300 per case.

One-off compliance costs for the one-off requirement to provide information amount to approximately EUR 1 300 000. Additional annual compliance costs amount to approximately EUR 65 000.

Requirement 4.2.3 (): Obligation for slaughterhouse operators to record animal welfare-relevant operations at the slaughterhouse; § 4d Animal Welfare Act

Change in annual compliance costs:

Number of cases	Time expenditure per case (in minutes)	Hourly wage (in EUR)	Material costs per case (in EUR)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
4 000			740		2 960
Change in compliance costs (in thousands of EUR)				2 960	

One-time compliance costs:

Number of cases	Time expenditure per case (in minutes)	Hourly wage (in EUR)	Material costs per case (in EUR)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
4 000			1 000		4 000
Compliance costs (in thousands of EUR)				4 000	

Operators of slaughterhouses are required to record operations that are relevant to animal welfare at the slaughterhouse.

On the basis of research, it is assumed that there are around 4 000 slaughterhouses in Germany. Under § 4d(2) first sentence, slaughterhouses which do not exceed a certain number of animals per year are exempt from recording. In justified cases, video surveillance may also be ordered for these too in accordance with the second sentence. Therefore, all 4 000 slaughterhouses are initially taken into account in the calculation.

The recordings shall be stored for the last 30 days on which slaughter took place, plus delivery days, and made available for retrieval to the competent authority for each working day. Once the retention obligation has expired, the data shall be deleted. The time needed to do so is negligible.

The recordings must depict, where applicable, the following process steps: Unloading from means of transport, movement to the resting/waiting area, resting/waiting, movement for stunning, suspension before stunning, stunning, suspension after stunning, movement for exsanguination, making of the sticking cut, exsanguination and what are known as ini-

tial further slaughter operations. The division of these process steps into delimitable rooms may differ between holdings. Since all animal welfare-related operations must be recorded, it is assumed that an average of EUR 3 500 per slaughterhouse will be incurred for acquisition purposes. In accordance with the methodology used, the acquisition costs are depreciated over their seven-year service life in accordance with the BMF's 'Wear and tear depreciation table for general purpose fixed assets' (see item 6.14.4 thereof) and categorised as ongoing compliance costs; they therefore amount to EUR 500 per year per slaughterhouse. For the regular maintenance and servicing of video surveillance systems, the standard value is EUR 240 per year. This results in EUR 740 for the annual compliance costs. Installing a video surveillance system with a storage function attracts a one-off cost of around EUR 1 000 per holding.

The estimated one-off compliance costs for the installation of the surveillance systems (as retrofitting of buildings, systems, infrastructure) amount to EUR 4 000 000 for the 4 000 slaughterhouses. Annual compliance costs are therefore estimated at EUR 2 960 000.

Requirement 4.2.4 (): Use of anaesthesia when castrating male cattle under four weeks of age; § 5(3) point 1 in conjunction with § 6(1) second sentence point 2c Animal Welfare Act

Change in annual compliance costs:

Number of cases	Time expenditure per case (in minutes)	Hourly wage (in EUR)	Material costs per case (in EUR)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
27 900			16.39		457
Change in compliance costs (in thousands of EUR)				457	

The exemption from the anaesthesia requirement laid down in § 5(3) point 1 for the castration of cattle under four weeks of age is being repealed.

No data is available on the number of male cattle under four weeks of age. According to data from the Federal Statistical Office, there were 985 072 male calves up to 8 months old in Germany in 2022. This figure has been used for guidance. Castration of male calves is particularly relevant in the context of bullock fattening. However, the fattening of bullocks, at 0.9 per cent, plays only a minor role in beef production in Germany. Nevertheless, according to official statistics, between around 25 100 and 30 700 bullocks of domestic origin were slaughtered annually between 2020 and 2022. Against this background, around 27 900 cases are therefore taken as the basis.

Pursuant to the 2022 Veterinary Fees Code (GOT), costs of EUR 15.39 per case can be expected for local anaesthesia (block anaesthesia, fee item 285) by a veterinarian. There are also the costs of the local anaesthetic of around EUR 1 per case. The total cost is therefore EUR 16.39 per animal. Sedation (medically induced immobilisation) of the animal and the administration of a painkiller already have to take place today. In addition, the Veterinary Fees Code stipulates a minimum fee of EUR 13 per call-out to the holding, unless the examination is carried out as part of a routine inspection on the holding. Since a pro rata calculation of the call-out fee per case or animal is not possible, this factor is not taken into account in the calculation of the material costs per case.

Annual compliance costs are estimated at around EUR 457 000.

Requirement 4.2.5 (): Implementation of measures for keeping lambs with undocked tails; § 5(3) point 3 second half sentence and point 4 Animal Welfare Act

Change in annual compliance costs:

Number of cases	Time expenditure per case (in minutes)	Hourly wage (in EUR)	Material costs per case (in EUR)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
264 200			7.44		1 966
Change in compliance costs (in thousands of EUR)				1 966	

The exception laid down in the second half sentence of § 5(3) point 3 for the docking of tails, without anaesthesia, of lambs under eight days of age is being deleted. Appropriate options are now available to sheep farmers for keeping sheep with undocked tails.

No data is available on the number of lambs under 8 days of age. According to data from the Federal Statistical Office, there were a total of 396 900 sheep under one year of age (= lambs and young sheep) in 2022. This figure has been used for guidance. Because of anatomical characteristics, female animals are particularly affected. According to statistics, these represent two thirds of the total number of sheep. This ratio has been applied to the estimation (= 264 200), which is to be seen as an upper limit. In particular, it should be noted that the risk of infestation with fly maggots ('myiasis') mainly affects breeds with long, woolly tails and therefore docking is not carried out in all lambs.

Appropriate options for keeping sheep with undocked tails are available, for example, by changing feed, introducing or modifying parasite management, changing or adapting the management of shearing and flocks. The exact additional costs may vary due to the diversity of holdings. On the basis of the results of the BMEL's Model and Demonstration Project (MuD), the average cost per case over all measures is estimated at EUR 7.44 per animal per year.⁴ In the future, targeted breeding for short tails and the widespread use of appropriate breeds could significantly reduce or eliminate the additional costs.

Annual compliance costs are, at most, EUR 1 966 000.

Requirement 4.2.6 (): Use of anaesthesia when dehorning or preventing horn growth in calves under six weeks of age; § 5(3) point 2 in conjunction with § 6(1) second sentence point 2b Animal Welfare Act

Change in annual compliance costs:

Number of cases	Time expenditure per case (in minutes)	Hourly wage (in EUR)	Material costs per case (in EUR)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
1 400 000			31.78		44 492
Change in compliance costs (in thousands of EUR)				44 492	

The exception for dehorning, without anaesthesia, calves under six weeks of age is being repealed. It is assumed, on the basis of source analyses, that dehorning will continue to be used (comprehensively), as the need for space (in loose housing) is smaller than for horned animals and dehorning is carried out in particular for reasons of health and safety and in order to reduce the risk of injury between the animals. It can be assumed that most conventional dairy farms will routinely dehorn cattle. As a general rule, the intervention in

⁴ MuD Tierschutz Projekte zur Schafhaltung: Verzicht auf das Kupieren des Schwanzes bei Schafblämmern, Ergebnisse aus dem Netzwerk, 2021.

calves takes the form of thermal cauterisation of the horn buds by means of a hot iron or ring (thermal cauteriser). The use of genetically hornless animals is also possible to avoid horn growth. However, the cattle breeds used in dairy farming predominantly come from horned breeding lines to date.

No data is available on the number of calves under six weeks of age. According to media reports from 2019, around 1 400 000 calves are dehorned each year in Germany. To date, the dehorning of calves has been permitted only under the condition that the animal is sedated (medically induced immobilisation) and a painkiller is administered. The amendments introduce an obligation to anaesthetise the calf in such a way that pain is effectively eliminated during the intervention. A local anaesthesia is carried out for this purpose. Pursuant to the 2022 Veterinary Fees Code (GOT), costs of EUR 15.39 per horn can be expected for local anaesthesia (block anaesthesia, fee item 285) by a veterinarian, or EUR 30.78 per animal. There is also the cost of the local anaesthetic, of about EUR 1 per animal. The total cost per animal is around EUR 31.78.

Annual compliance costs are estimated at around EUR 44 492 000.

Requirement 4.2.7 (): Implementation of measures to avoid tail tip docking in cattle; § 6(3) first sentence point 3 Animal Welfare Act

Change in annual compliance costs:

Number of cases	Time expenditure per case (in minutes)	Hourly wage (in EUR)	Material costs per case (in EUR)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
127 405			116		14 779
Change in compliance costs (in thousands of EUR)				14 779	

The exception for the docking of tails of male calves under three months of age using elastic rings is being deleted.

The animals affected by inflammation at the tail tip are almost exclusively fattening bulls in housing with concrete slatted floors. Currently, the docking of the tail tip is permitted, by way of exception, with official permission. No data is available on the implementation of the intervention in practice.

The improvement or adaptation of housing conditions, such as the reduction of stocking density, adaptation of the type/design of lying and/or floor areas, improvements to the indoor climate and, in particular, feeding that is appropriate for ruminants allow appropriate measures to protect against illness and make the intervention largely superfluous. According to data from the Federal Statistical Office, there were around 849 368 male cattle between the age of one and two years in Germany in 2022, for which use as a fattening bull can be assumed. This figure is taken as a guide, minus 0.9 per cent bullocks – the number of breeding bulls to be deducted is negligible – gives 841 724 animals. As this number of animals comprises two years of birth, it is halved to give an annual figure (= 420 862 cattle). As there is currently no routine or systematic docking of tail tips, an exception in 15 per cent of male cattle in the relevant age bracket is assumed. This corresponds to an upper limit of around 127 405 cattle. On the basis of information from the Bavarian State Institute for Agriculture (LfL Bayern), an estimated cost of EUR 116 per animal is expected (EUR 65 for a larger housing space and EUR 51 for a soft-lying area). Depreciation at the wear-and-tear depreciation rate set by the Federal Ministry of Finance (BMF) has been taken into account in the acquisition costs.

Annual compliance costs are estimated at around EUR 14 779 000.

Requirement 4.2.8 (): Demonstration of compliance with requirements for keeping pigs with docked tails on request; § 6(5) Animal Welfare Act

It must be demonstrated to the competent authority, upon request, that the tail docking is essential and that the conditions for keeping pigs with docked tails are fulfilled. As stated for requirement 4.2.8, it is also the case here that there is no additional cost as a result of the clarification of current provisions of the Animal Welfare Act.

Requirement 4.2.9 (other requirement): Ban on keeping or putting on display certain wild animals in changing locations; § 11(4) Animal Welfare Act

It is prohibited to keep or put on display elephants, hippopotamuses, giraffes, bears, big cats, rhinoceroses, primates and seals at changing locations.

The ban does not give rise to any compliance costs. Imputed costs (e.g. lost profit) are not taken into account as compliance costs.

Requirement 4.2.10 (): Compliance with requirements for keeping pigs with docked tails; § 11(9) Animal Welfare Act

§ 11(9) of the Animal Welfare Act lays down the conditions under which pigs with docked tails may be kept. This is the case only if tail or ear injuries have occurred in the facility concerned, these are recorded by the keeper, risk analyses are carried out to identify the main causes for these and the causes are immediately remedied, so that no docking is required in the future. This is a clarification of the rules already in force in the Animal Welfare Act. The provisions merely specify in greater detail, in the Animal Welfare Act, the requirements already imposed on holdings, which are derived from the current rules and are set out in the 'Action plan to improve controls to prevent tail biting and reduce tail docking in pigs'. Regulations at Land level already stipulate the mandatory application of the action plan. Clarification in the Animal Welfare Act does not create any additional compliance costs for holdings.

Requirement 4.2.11 (other requirement): Ban on breeding vertebrates with cruel breeding characteristics; § 11b(1b) and (1c) Animal Welfare Act

A ban on using an animal with cruel breeding characteristics for breeding is being imposed. The new paragraph (1c) allows breeders to carry out back-breeding where a corresponding breeding plan is presented.

According to information from the OnDEA database, there is a comparable requirement to draw up a breeding plan with a required time of 2 400 minutes per case. This is also assumed to be a one-off cost for this requirement. Veterinary examinations may be necessary in order to determine whether animals have cruel breeding characteristics. The cost of this can vary greatly depending on the species. Since the back breeding ensures a transitional period, no costs are deemed to be incurred for replacing the breeding animals.

The wage rate corresponds to a high skill level in Sector A Agriculture, Forestry and Fisheries (EUR 36).

The number of breeders concerned cannot be determined, so it is not possible to calculate the one-off compliance costs at this point.

The ban does not give rise to any compliance costs. Imputed costs (e.g. lost profit) are not taken into account as compliance costs.

Requirement 4.2.12 (): Ban on exhibiting or advertising with vertebrates that have cruel breeding characteristics; § 11b(3a) Animal Welfare Act

It is prohibited to put on display animals with cruel breeding characteristics.

The ban does not give rise to any compliance costs. Imputed costs (e.g. lost profit) are not taken into account as compliance costs.

Requirement 4.2.13 (): Creating the conditions for and carrying out the stunning and killing of cephalopods and decapods before supply to the final consumer; § 11c(2) Animal Welfare Act

The new paragraph (2) prohibits the supply of cephalopods and decapods intended for use as food to the final consumer. Internet research shows that the sale of live cephalopods and decapods to final consumers takes place only in a limited number of cases, as the associated requirements are high. It is therefore assumed that the overall compliance costs for stunning and killing in individual cases will be negligible for potentially affected holdings.

Requirement 4.2.14 (): Obligation of online platform operators to ensure data is provided by vendors for advertisements of live vertebrates; § 11d Animal Welfare Act

Change in annual compliance costs:

Number of cases	Time expenditure per case (in minutes)	Hourly wage (in EUR)	Material costs per case (in EUR)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
100	4 254	31.40		223	
Change in compliance costs (in thousands of EUR)				223	

One-time compliance costs:

Number of cases	Time expenditure per case (in minutes)	Hourly wage (in EUR)	Material costs per case (in EUR)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
100			1 090		109
Compliance costs (in thousands of EUR)				109	

§ 11d lays down requirements for offering vertebrates online, which ensure traceability to the respective vendor of an animal and adds a rule prohibiting the online supply of vertebrates with cruel breeding characteristics and vertebrates in which amputations or tissue removals have been carried out contrary to animal welfare.

According to the 2022 marketplace study, there are 214 online marketplaces⁵. It is assumed that around half of the platforms can potentially also offer animals (= around 100).

According to the industry's time value table, 4 254 minutes per platform per year are expected to be required for Standard Activity 18 – High-complexity monitoring measures, as a result of the obligation to provide information to the competent authority.

The wage rate corresponds to an average skill level in Sector G Trade (EUR 31.40).

⁵ Ecom Consulting GmbH & Gominga eServices GmbH: Study: DIE MARKTPLATZWELT 2022, Online-Marktplätze und ihre Erfolgsfaktoren, Munich, 2022, p. 54.

For the one-off modification of IT, the standard value is assumed to be the average cost for one programming day of EUR 1 090.

One-off compliance costs for the

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are around EUR 109 000. Annual compliance costs are around EUR 223 000.

Requirement 4.2.15 (other requirement): Ban on offering vertebrates taken from the wild at animal fairs; § 11e(1) Animal Welfare Act

It is prohibited to put on display, exchange or offer for sale at animal fairs any vertebrate taken from the wild.

The ban does not give rise to any compliance costs. Imputed costs (e.g. lost profit) are not taken into account as compliance costs.

Requirement 4.2.16 (obligation to provide information): Placing of signs on facilities housing vertebrates at animal fairs; § 11e(2) Animal Welfare Act

On housing, cages, other containers and other facilities accommodating vertebrates at animal fairs, signs containing certain information relating to the animal must be put up.

It is assumed that the points to be mentioned on the sign constitute information that is already known to the vendor. Putting up signs on the facilities mentioned already reflects good professional practice and guidelines on the organisation of animal fairs from an animal welfare point of view. The overall compliance costs are therefore negligible.

Requirement 4.2.17 (obligation to provide information): Handing over the documents required for the animal when animals are supplied at animal fairs; § 11e(3) Animal Welfare Act

When an animal is supplied to the future keeper at an animal fair, the documents relating to animal welfare, animal health and species protection required for the animal must be handed over in full with the animal.

The documents are already available to the keeper. The handover with the animal does not entail any additional work steps. The overall compliance costs are therefore negligible.

Requirement 4.2.18 (other requirement): Fees incurred as a result of official checks when commercial vendors participate in animal fairs; § 16(3) ninth and tenth sentence (new) Animal Welfare Act

Fees are not part of compliance costs and are therefore not taken into account (cf. Guidance on compliance costs, p. 9).

Requirement 4.2.19 (): Compulsory notification of animal shows; § 16(1b) Animal Welfare Act

Shows, exhibitions and other publicly accessible events at which vertebrates are to be compared, examined or otherwise evaluated must be notified to the competent authority. Notification is unnecessary if the event already needs to be notified to that authority on the basis of another legal provision (for example under animal health legislation) or a requirement imposed by the authorities.

According to the time value table for businesses for low-complexity activities, the time required for notification is estimated at 7 minutes per case (Standard activity 2 Acquisition of data 2 minutes, Standard activity 3 Completion of forms 3 minutes, Standard activity 8 Data transmission 1 minute, Standard activity 12 Copying, archiving, distributing 1 minute).

The wage rate corresponds to a high skill level in Sector A Agriculture, Forestry and Fisheries (EUR 36).

The number of animal shows concerned cannot be determined, so it is not possible to calculate the specific annual compliance costs at this point. It is estimated that compliance costs of up to EUR 100 000 will be incurred.

Requirement 4.2.20 (): Marking by the keeper of individual carcasses of cattle, pigs, sheep, goats and solipeds to ensure traceability of the carcasses to the holding of origin; § 16l Animal Welfare Act

Change in annual compliance costs:

Number of cases	Time expenditure per case (in minutes)	Hourly wage (in EUR)	Material costs per case (in EUR)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
3 300 000	2	18	0.1	1 980	330
1 370 000	2	18	0.1	822	137
450 000	2	18	0.1	270	45
34 000	2	18	0.1	20	3
3 000	2	18	0.1	2	0
Change in compliance costs (in thousands of EUR)				3 610	

The comments on compliance costs are essentially replicated and partly updated from the estimate for the 2021 draft amendment to the Animal Welfare Act concerning animal by-product processing plants, which has not yet been implemented, in particular with regard to sheep, goats and solipeds.

The new marking requirement is expected to concern, in particular, fallen stock from piglet production and pig fattening. Pigs that die or are killed before being marked cannot be traced back to their last holding in the holding processing animal by-products by means of any mark. Cattle, sheep, goats and horses that have died or are killed prematurely also cannot always be traced back to their last holding. In addition, animals supplied to another holding after being marked cannot always be traced back to their last holding on the basis of the mark alone, without the aid of further information. Therefore, these carcasses are to be marked. Based on the number of breeding sows kept in Germany (according to the Federal Statistical Office (November 2019) around 17 000 000 animals) and on the estimated assumption made by the Federal Ministry of Food and Agriculture that an average of 29 piglets are weaned by one sow each year and the loss rate in the suckling phase is around 12 per cent, it can be assumed that around 55 700 000 piglets are born alive in Germany every year, but only around 49 000 000 are weaned. It can therefore be assumed that the number of piglets that die or are killed during the suckling phase is around 6 700 000 piglets. The BMEL estimates that 50 % of piglets should be marked before weaning, so that 50 per cent of piglet carcasses should still be marked if they die or are killed before weaning. This amounts to around 3 300 000 carcasses per year. According to the BMEL's estimate, the time taken to mark a carcass is 2 minutes. The marking may be carried out by employees with a basic level of qualification. This results in a wage rate

of EUR 18 per hour in Sector A. The additional material costs for marking are approximately EUR 0.1 per case. This results in the following calculation: 18 euros/60 minutes x 2 minutes x 3 300 000 animals + (EUR 0.1 x 3 300 000 animals).

According to data from the Federal Statistical Office from November 2019, one piglet production holding keeps an average of 250 sows. Under the assumptions described above (29 piglets weaned per sow per year, 12 per cent loss rate, 50 per cent of piglets not yet marked when they die) it can be assumed that around 500 piglets per year must be marked in such an average holding. On the basis of the above-mentioned wage rate and the material costs described above, it can be assumed that such an average holding would incur costs of approximately EUR 300 a year.

Based on the number of pigs kept for slaughter in Germany in 2019 (according to figures from the Federal Statistical Office, around 53 800 000 animals) and on the estimated assumption made by the Chamber of Agriculture of North Rhine-Westphalia and the Kuratorium für Technik und Bauwesen in der Landwirtschaft e.V. that losses in the fattening phase amount to approximately three per cent, i.e. a total of around 1 600 000 animals, and the number of animals kept by pure fatstock farmers is approx. 85 per cent, approximately 1 370 000 carcasses of fattening pigs were delivered to animal by-product processing holdings in 2019, which did not have any mark of the fattening holding. This results in the following calculation: 18 euros/60 minutes x 2 minutes x 1 370 000 animals + (EUR 0.1 x 1 370 000 animals).

Based on data from the Federal Statistical Office from November 2019, an average fattening holding in Germany has around 700 fattening places. A total of approximately 2 100 fattening pigs are fattened each year during three fattening cycles per year. If the loss rate, the wage rate and the material costs described above are assumed, such an average holding would be expected to incur costs of approximately EUR 40 a year.

As indicated above, the cost of marking is approximately EUR 300 per year for an average piglet production holding and approximately EUR 40 per year for an average fattening holding.

Annual compliance costs are estimated at around EUR 3 269 000 for pigs.

All cattle present on the holding which are more than seven days old must already be marked in accordance with EU law and the German Livestock Movement Ordinance. Around 4 million calves are born each year. A significant proportion of calves are born dead, die shortly after birth or in the initial weeks thereafter. The combined rate of stillbirths and calf losses is between ten and 20 per cent. Assuming a stillbirth and mortality rate of 15 per cent, this amounts to approximately 600 000 calves a year.⁶ Around 50 per cent of cases die in the first two days after birth.⁷ In order to take account of the following 5 days, it is liberally assumed that 75 per cent of the 600 000 calves are affected. This results in 450 000 cases. This results in the following calculation: (18 euros/60 minutes x 2 minutes x 450 000 animals) + (EUR 0.1 x 450 000 animals). Annual compliance costs are around EUR 315 000 for cattle.

Sheep and goats must be marked within nine months of birth, in accordance with EU law and the German Livestock Movement Ordinance, and at the latest before they are moved from the holding of origin. As no data is available on the number of sheep and goats under nine months of age, the number of 396 900 sheep for one year under requirement 4.2.5 is used as an approximation for calculating the number of cases and, by analogy, about one third of the 162 600 goats (= 54 200 goats) kept in Germany in 2023 according to the Fed-

⁶ AgrarBündnis e.V.: Der Kritische Agrarbericht 2022, Munich, 2022, p. 277 et seq.

⁷ Landwirtschaftliches Zentrum Baden-Württemberg, Landesamt für Geoinformation und Landentwicklung Baden-Württemberg, 2022: https://fortbildung-lazbw.lgl-bw.de/lazbw/webbasys/download/Kurse/2021/G-Zerbe_Handout_Neugeborenes_Kalb.pdf (last accessed on 7.5.2024).

eral Statistical Office, i.e. a total of 451 100 animals. Assuming a loss rate of ten per cent⁸, around 45 000 animals are concerned. Around 50 per cent of cases die on the first day of life.⁹ In order to take into account the following months of life, it is liberally assumed that 75 per cent of the 45 000 animals are affected. This results in 34 000 cases. This results in the following calculation: (18 euros/60 minutes x 2 minutes x 34 000 animals) + (EUR 0.1 x 34 000 animals). Annual compliance costs are around EUR 24 000 for sheep and goats.

Solipeds must be marked within the year of birth or half a year after birth, in accordance with EU law and the German Livestock Movement Ordinance. According to information requirement 2013011413444401 registered in the OnDEA database (application for an equine passport), around 52 000 equine passports are issued per year. It is liberally assumed that the 52 000 solipeds represent 95 per cent of the animals to be newly marked each year. As the loss rate is not known, it is assumed to be lower than for the other animal species at five per cent (52 000/95 x 100 = around 55 000, of which 5 per cent = around 3 000). Accordingly, it is estimated that around 3 000 animals die or are killed before being marked. This results in the following calculation: (18 euros/60 minutes x 2 minutes x 3 000 animals) + (EUR 0.1 x 3 000 animals). Annual compliance costs are around EUR 2 000 for solipeds.

Requirement 4.2.21 (): Obligation of the operator of the animal by-product processing plant to assist the competent authorities in carrying out checks thereon; § 16m Animal Welfare Act

Change in annual compliance costs:

Number of cases	Time expenditure per case (in minutes)	Hourly wage (in EUR)	Material costs per case (in EUR)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
240	240	33.70		32	
Change in compliance costs (in thousands of EUR)				32	

The comments on compliance costs are essentially replicated and partly updated from the estimate for the 2021 draft amendment to the Animal Welfare Act concerning animal by-product processing plants, which has not yet been implemented, in particular with regard to sheep, goats and solipeds.

An obligation on the operator is being introduced to assist the competent authority in carrying out checks on the animal by-product processing plant. According to estimates by the BMEL, it can be assumed that each plant is checked on a monthly basis. The operator must assist the persons tasked with inspection in the check. Land, premises and means of transport of the animal by-product processing plants might be visited, and therefore the operator will have to provide assistance, e.g. when individual carcasses are to be unloaded from means of transport and the business documentation must be provided. It can be assumed that assistance in these checks will be carried out by employees with an average level of qualification. The corresponding wage rates and time values can be found in the wage cost table and the time value table in the Guide. For Sector E, the wage is EUR 33.70 per hour. It is assumed that the assistance in the checks will last approximately 240 minutes (according to the OnDEA database, there is a comparable requirement concerning checks on holdings with similar work steps). This results in the following

⁸ Bundesinformationszentrum Landwirtschaft: <https://www.nutztierhaltung.de/schaf/oekonomie/wie-rentabel-ist-die-schafhaltung-in-nrw/> (last accessed on 7.5.2024).

⁹ Wochenblatt für Landwirtschaft und Landleben, 2022: <https://www.wochenblatt.com/landwirtschaft/tier/laemmer-senden-signale-13056507.html#:~:text=52%20%25%20der%20L%C3%A4mmerverluste%20am%20ersten,h%C3%A4ufiger%20als%20bei%20Einlingen%20vorkommen> (last accessed on 7.5.2024).

calculation: 12 checks x 240 minutes/60 minutes x EUR 33.70 x 20 animal by-product processing plants.

Annual compliance costs are around EUR 32 000.

Requirement 4.2.22 (): Compensation for animal by-product processing plants for the costs incurred by the newly introduced measures; § 16m Animal Welfare Act

Change in annual compliance costs:

Number of cases	Time expenditure per case (in minutes)	Hourly wage (in EUR)	Material costs per case (in EUR)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
240	60	58.90	2	14	0
Change in compliance costs (in thousands of EUR)				15	

The requirement is specified here for animal by-product processing plants in addition to requirement 4.3.20.

The comments on compliance costs are essentially replicated and partly updated from the estimate for the 2021 draft amendment to the Animal Welfare Act concerning animal by-product processing plants, which has not yet been implemented.

Animal by-product processing plants may require compensation for the costs incurred as a result of assisting the competent authority in carrying out the checks of holding or facility. Assuming that each plant is checked on a monthly basis, the number of cases is 240 (12 checks x 20 plants). It is also assumed that each plant will submit a claim after each check. It can be assumed that the claims will be made by employees with a high level of qualification. The corresponding wage rates and time values can be found in the wage cost table and the time value table in the Guide. For Sector E, the wage is EUR 58.90 per hour. It is assumed that the editing and compilation of the necessary documents will take about 60 minutes per case (data acquisition 30 minutes for all supporting documents, etc., other information see time value table in the Guide: Complete forms 3 minutes, Perform calculations 20 minutes, Transmit data 1 minute, Copying/archiving/distributing 10 minutes). There are additional material costs of approximately EUR 2 in postage for sending the documents to the competent authority. This results in the following calculation: 12 checks x EUR 58.90 x 20 plants + (EUR 2 x 12 checks x 20 animal by-product processing plants).

Annual compliance costs are around EUR 15 000.

Requirement 4.2.23 (other requirement): Ban on supplying heavily pregnant sheep and goats for slaughter; First sentence of Section 4 Animal Products Trade Prohibition Act

The new provision in the first sentence of § 4 of the Animal Products Trade Prohibition Act prohibits heavily pregnant sheep and goats from being supplied for slaughter. These species were previously exempted from the ban in view of the specific housing conditions, in particular extensive farming methods. However, since sufficient scientific and practical knowledge is now available in order to prevent the supply of heavily pregnant sheep and goats for slaughter, the inclusion of these species in the scope of the § 4 is justified.

The ban on the supply of heavily pregnant animals does not give rise to any significant compliance costs. The examinations necessary to establish pregnancy (e.g. ultrasound) are already carried out by the holdings concerned as part of health checks and herd man-

agement in accordance with good agricultural practice. According to publications e.g. by the Tierärztliche Vereinigung für Tierschutz e.V., ultrasound pregnancy testing is central to reproductive management in sheep and goat herds¹⁰. A nationwide declaration on preventing the slaughter of small pregnant ruminants has been in place since 2016, which contains recommendations on how to prevent such slaughter. Most keepers therefore will not incur any new compliance costs. It can also be assumed that the number of sheep and goats that are being supplied for slaughter and need to be examined will be relatively small. According to literature, lambs fattened on pasture or indoors are slaughtered at around 3.5-6 months old. As they cannot be heavily pregnant at this stage, they do not need to be examined. Only female animals that have been used for breeding or reproduction and are subsequently slaughtered are relevant for compliance costs. The number of these ewes is not known. Only the number of female sheep kept for breeding is known (around 1.1 million in 2023). However, this figure also includes the number of young female sheep covered for the first time. Assuming a replacement rate of approximately 20 per cent, the number of ewes sent for slaughter is likely to be low. No statistical surveys are available for goat farming in Germany. However, a very small number of goats are likely to be affected. Given the marginal number of cases and the necessary measures that have already taken place in the context of good practice, it can be assumed that there will be no significant compliance costs.

4.3 Compliance costs for government agencies by specification

Below is a description of the compliance cost estimate for government agencies for each specification.

Requirement 4.3.1: Checking the tethered keeping of animals in the individual case; § 2b Animal Welfare Act

Change in annual compliance costs of the federal states:

Number of cases	Time expenditure per case (in minutes)	Hourly wage (in EUR)	Material costs per case (in EUR)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
11 000	60	65.20		717	
Change in compliance costs (in thousands of EUR)				717	

§ 2b prohibits tethered keeping in general. In individual cases, tethering is permissible for a specific purpose. This is checked by the competent authorities. The ban on tethered keeping generally applies to all animals. However, the biggest impact is expected in the area of cattle farming. § 21(1a) allows an exception under certain conditions for the tethered keeping of cattle in existing holdings.

As these are individual cases, it is liberally assumed that one per cent of the approximately 1.1 million cattle (cf. requirement 4.2.1 for businesses) will be affected. This results in 11 000 cases.

In line with the similar checks on holdings recorded in the Federal Statistical Office's data, a time of one hour per case is assumed.¹¹

The wage rate corresponds to the wage costs for *höherer Dienst* payscale employees at Land level (EUR 65.20).

Annual compliance costs for the requirement amount to approximately EUR 717 000 (11 000 * 60 minutes/60 * EUR 65.20).

¹⁰ <https://www.tierschutz-tvt.de/alle-merkblaetter-und-stellungnahmen/> (last accessed 11.4.2024).

¹¹ [2013121009425101](https://www.tierschutz-tvt.de/alle-merkblaetter-und-stellungnahmen/2013121009425101).

Requirement 4.3.2: Examination of competence for the stunning and killing animals; § 4(1a) third sentence in conjunction with paragraph (4) Animal Welfare Act

Change in annual compliance costs of the federal states:

Number of cases	Time expenditure per case (in minutes)	Hourly wage (in EUR)	Material costs per case (in EUR)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
215	8	65.20		2	0
Change in compliance costs (in thousands of EUR)				2	

This is the examination of competence mirroring requirement 4.2.2.

The number of cases therefore mirrors that for businesses (see requirement 4.2.2). It can be assumed that in about 10 per cent of cases (= maximum 215) a random check is carried out, if necessary as part of a routine holding inspection.

According to the time value table for the authorities, for Standard activity 16 Basic-complexity monitoring and supervision measures, the time required is estimated to be 8 minutes per case to check the selected measures.

The wage rate corresponds to the wage costs for *höherer Dienst* payscale employees at Land level (EUR 65.20).

Compliance costs are around EUR 2 000.

Requirement 4.3.3: Checking the setup and implementation of video surveillance at slaughterhouses; § 4d Animal Welfare Act

Change in annual compliance costs of the federal states:

Number of cases	Time expenditure per case (in minutes)	Hourly wage (in EUR)	Material costs per case (in EUR)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
16 000	240	65.20		4 173	
Change in compliance costs (in thousands of EUR)				4 173	

One-time compliance costs of the federal states:

Number of cases	Time expenditure per case (in minutes)	Hourly wage (in EUR)	Material costs per case (in EUR)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
4 000	240	65.20		1 043	
Compliance costs (in thousands of EUR)				1 043	

The competent authority shall check the setup and implementation of video surveillance in slaughterhouses.

The number of cases mirrors that for businesses (see requirement 4.2.3). It is assumed that, on average, video recordings in each holding will be viewed once a quarter on a random basis or prompted by events, or a check will be carried out on account of significant changes (construction, technical or procedural).

In line with similar controls on holdings recorded in the Federal Statistical Office's data, a time of 240 minutes per case is assumed.

The wage rate corresponds to the wage costs for *höherer Dienst* payscale employees at Land level (EUR 65.20).

One-off compliance costs amount to around EUR 1 043 000. Annual compliance costs amount to around EUR 4 173 000.

Requirement 4.3.4: Checking compliance with the requirement that male cattle under four weeks of age must be anaesthetised for castration; § 5(3) point 1 Animal Welfare Act

Change in annual compliance costs of the federal states:

Number of cases	Time expenditure per case (in minutes)	Hourly wage (in EUR)	Material costs per case (in EUR)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
2 790	8	65.20		24	
Change in compliance costs (in thousands of EUR)				24	

The exemption from the anaesthesia requirement laid down in § 5(3) point 1 for the castration of cattle under four weeks of age is being repealed. Compliance with this requirement is to be checked by the competent authority.

The number of cases mirrors that for businesses (see requirement 4.2.4). It can be assumed that in about 10 per cent of cases (= 2 790) a random check will be carried out, if necessary as part of a routine holding inspection.

According to the time value table for the authorities, for Standard activity 16 Basic-complexity monitoring and supervision measures, the time required is estimated to be 8 minutes per case to inspect and examine medication documentation.

The wage rate corresponds to the wage costs for *höherer Dienst* payscale employees at Land level (EUR 65.20).

Annual compliance costs are around EUR 24 000.

Requirement 4.3.5: Checking compliance with the ban on docking lamb tails; § 5(3) point 3 second half sentence and point 4 Animal Welfare Act

Change in annual compliance costs of the federal states:

Number of cases	Time expenditure per case (in minutes)	Hourly wage (in EUR)	Material costs per case (in EUR)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
26 420	8	65.20		230	
Change in compliance costs (in thousands of EUR)				230	

The exception in the second half sentence of § 5(3) point 3 for the docking of tails, without anaesthesia, of lambs under eight days of age is being repealed and the intervention is therefore being prohibited without exception. Appropriate options are now available to sheep farmers for keeping sheep with undocked tails. Checks on compliance with this prohibition shall be carried out on-the-spot by the competent authority.

The number of cases mirrors that for businesses (see requirement 4.2.5). It can be assumed that in about 10 per cent of cases (= maximum 26 420) a random check will be carried out, if necessary as part of a routine holding inspection.

According to the time value table for the authorities, for Standard activity 16 Basic-complexity monitoring and supervision measures, the time required is estimated to be 8 minutes per case to check the selected measures.

The wage rate corresponds to the wage costs for *höherer Dienst* payscale employees at Land level (EUR 65.20).

Maximum annual compliance costs are therefore EUR 230 000.

Requirement 4.3.6: Checking compliance with the requirement that calves under six weeks of age must be anaesthetised for dehorning or the prevention of horn growth; § 5(3) point 2 in conjunction with § 6(1) second sentence point 2b Animal Welfare Act

Change in annual compliance costs of the federal states:

Number of cases	Time expenditure per case (in minutes)	Hourly wage (in EUR)	Material costs per case (in EUR)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
140 000	8	65.20		1 217	
Change in compliance costs (in thousands of EUR)				1 217	

The exception for dehorning, without anaesthesia, calves under six weeks of age is being repealed. Compliance with this requirement is to be checked by the competent authority.

The number of cases mirrors that for businesses (see requirement 4.2.6). It can be assumed that in about 10 per cent of cases (= 140 000) a random check will be carried out, if necessary as part of a routine holding inspection.

According to the time value table for the authorities, for Standard activity 16 Basic-complexity monitoring and supervision measures, the time required is estimated to be 8 minutes per case to inspect and examine medication documentation.

The wage rate corresponds to the wage costs for *höherer Dienst* payscale employees at Land level (EUR 65.20).

Annual compliance costs are estimated at around EUR 1 217 000.

Requirement 4.3.7: Checking compliance with the ban on docking cattle tails; § 6(4a) (new) Animal Welfare Act

Change in annual compliance costs of the federal states:

Number of cases	Time expenditure per case (in minutes)	Hourly wage (in EUR)	Material costs per case (in EUR)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
12 700	8	65.20		110	
Change in compliance costs (in thousands of EUR)				110	

The exception for the docking of tails of male calves under three months of age using elastic rings is being deleted. Compliance with this requirement is to be checked by the competent authority.

The number of cases mirrors that for businesses (see requirement 4.2.7). It can be assumed that in about 10 per cent of cases (= 12 700) a random check will be carried out, if necessary as part of a routine holding inspection.

According to the time value table for the authorities, for Standard activity 16 Basic-complexity monitoring and supervision measures, the time required is estimated to be 8 minutes per case to inspect and examine medication documentation.

The wage rate corresponds to the wage costs for *höherer Dienst* payscale employees at Land level (EUR 65.20).

Annual compliance costs are around EUR 110 000.

Requirement 4.3.8: Checking compliance with the ban on keeping or putting on display certain wild animals in changing locations; § 11(4) Animal Welfare Act

It is prohibited to keep or put on display elephants, hippopotamuses, giraffes, bears, big cats, rhinoceroses, primates and seals at changing locations.

Assuming that compliance with the ban will not be checked systematically but only when prompted by events, as part of checks normally carried out pursuant to § 16(1) first sentence point 4 or 6 Animal Welfare Act, or in suspected cases, the overall compliance costs are negligible.

Requirement 4.3.9: Checking compliance with the requirements for keeping pigs with docked tails, which is permitted as an exception; § 11(9) Animal Welfare Act

§ 11(9) lays down the conditions under which pigs with docked tails may be kept. Compliance with this requirement is to be checked by the competent authority. As stated for requirement 4.2.10, it is also the case here that there is no additional cost as a result of the clarification of current provisions of the Animal Welfare Act.

Requirement 4.3.10: Checking compliance with the ban on breeding vertebrates with cruel breeding characteristics and checking the breeding plan in the case of back breeding; § 11b(1b) and (1c) Animal Welfare Act

It is prohibited to breed animals which have cruel breeding characteristics. The new paragraph (1c) allows breeders to temporarily carry out back-breeding where a corresponding breeding plan is presented. According to information from the OnDEA database, there is a comparable requirement to check a breeding plan with a required time of 480 minutes per case. This is also assumed to be a one-off cost for this requirement.

It can be assumed that compliance with this ban will not be checked systematically but only when prompted by events or in suspected cases, and that it also takes 480 minutes per case.

The wage rate corresponds to the wage costs for *höherer Dienst* payscale employees at Land level (EUR 65.20).

The number of breeders concerned cannot be determined, so it is not possible to calculate the one-off or annual compliance costs at this point.

Requirement 4.3.11: Checking compliance with the ban on exhibiting and advertising with vertebrates that have cruel breeding characteristics; § 11b(3a) Animal Welfare Act

Change in annual compliance costs of the federal states:

Number of cases	Time expenditure per case (in minutes)	Hourly wage (in EUR)	Material costs per case (in EUR)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
16	96 000	65.20	0	1 669	0
16	96 000	43.80	0	1 121	0
Change in compliance costs (in thousands of EUR)				2 790	

It is prohibited to put on display animals with cruel breeding characteristics.

Assuming that two posts (200 working days of 8 hours in each case) are required to check compliance with the ban, including preparation and follow-up, in each Land, and that this work is carried out by a (official) veterinarian or a senior inspector and an average administrator, the total compliance costs are around 2 790 000.

Requirement 4.3.12: Checking compliance with the ban on supplying live decapods and cephalopods; § 11c(2) Animal Welfare Act

The new paragraph (2) prohibits the supply of cephalopods and decapods intended for use as food to the final consumer.

Assuming that compliance with the ban, which also now includes compliance with the requirement for proper killing by a person holding proof of competence, is not checked systematically but only when prompted by events or in suspected cases, the overall compliance costs are negligible.

Requirement 4.3.13: Checking compliance with the ban on the commercial supply of vertebrates (other than farm animals and horses) on roads, paths and open spaces accessible to the public; § 11c(3) Animal Welfare Act

Anyone commercially breeding or trading in vertebrates that are not farm animals or horses shall not offer for sale or supply said vertebrates on roads, paths or open spaces accessible to the public. This shall not apply to events taking place on roads, paths or open spaces accessible to the public for the implementation of which the operator has been granted an official permit pursuant to § 11(1) point 7 or point 8 letter (d). The aim of the new rule is to prevent trade in pet animals, which is in breach of animal welfare legislation.

Assuming that compliance with the ban will not be checked systematically but only when prompted by events, or in suspected cases, the overall compliance costs are negligible.

4.3.14: Checking compliance with the ban on offering live vertebrates on online platforms without providing data for the purpose of vendor traceability; § 11d(1) Animal Welfare Act

The offering of live vertebrates on online platforms shall only be permitted if data is provided to the online platform for the purpose of vendor traceability.

Assuming that compliance with the ban will not be checked systematically but only when prompted by events, or in suspected cases, the overall compliance costs are negligible.

Requirement 4.3.15: Checking compliance with the ban on offering animals with cruel breeding characteristics on online platforms; § 11d(3) Animal Welfare Act

Change in annual compliance costs of the federal states:

Number of cases	Time expenditure per case (in minutes)	Hourly wage (in EUR)	Material costs per case (in EUR)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
16	96 000	65.20	0	1 669	0
16	96 000	43.80	0	1 121	0
Change in compliance costs (in thousands of EUR)				2 790	

The offering of vertebrates with cruel breeding characteristics on online platforms shall be prohibited.

Assuming that two posts (200 working days of 8 hours in each case) are required to check compliance with the ban, including preparation and follow-up, in each Land, and that this work is carried out by a (official) veterinarian or a senior inspector and an average administrator, the total compliance costs are around 2 790 000.

Requirement 4.3.16: Checking compliance with the ban on offering vertebrates taken from the wild at animal fairs; § 11e(1) Animal Welfare Act

It is prohibited to put on display, exchange or offer for sale at animal fairs any vertebrate taken from the wild.

Assuming that the checks are carried out as part of the checks carried out under to § 16(1) ninth and tenth sentence and in suspected cases, the overall compliance costs are negligible.

Requirement 4.3.17: Control of the requirement to placing of signs on facilities housing vertebrates at animal fairs; § 11e(2) Animal Welfare Act

On housing, cages, other containers and other facilities accommodating vertebrates at animal fairs, signs containing certain information must be put up.

Assuming that the checks are carried out as part of the checks carried out under to § 16(1) ninth and tenth sentence and in suspected cases, the overall compliance costs are negligible.

Requirement 4.3.18: Checking compliance with the requirement to hand over documents necessary for an animal when exchanging or selling at animal fairs; § 11e(3) Animal Welfare Act

When animals are sold or exchanged at animal fairs, the documents concerning animal welfare, animal health and species protection required for each animal must be handed over in full.

Assuming that the checks are carried out as part of the checks carried out under to § 16(1) ninth and tenth sentence and in suspected cases, the overall compliance costs are negligible.

Requirement 4.3.19: Checking compliance with the requirement to take appropriate measures to protect vertebrates before mowing; § 13(2) Animal Welfare Act

Measures to protect vertebrates when using mowing equipment on non-commercial land at dusk and during hours of darkness are to be checked by the competent authority.

Assuming that compliance will not be checked systematically but only when prompted by events, or in suspected cases, the overall compliance costs are negligible.

Requirement 4.3.20: Checking of animal fairs where commercial breeders, keepers or traders are expected to participate and of surrounding areas; § 16(1) ninth and tenth sentence Animal Welfare Act

Change in annual compliance costs of the federal states:

Number of cases	Time expenditure per case (in minutes)	Hourly wage (in EUR)	Material costs per case (in EUR)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
4 700	240	65.20		1 226	
4 700	240	43.80		823	
Change in compliance costs (in thousands of EUR)				2 049	

On-the-spot checks must be carried out by the competent authority at every animal fair where commercially acting breeders, keepers or traders are expected to participate as vendors. The duration of the check is at the discretion of the authority. The check shall also cover the public roads, paths and open spaces directly adjacent to the animal fair.

As the duration is at the discretion of the authority, the time required may vary between a brief check and a full-day inspection. On average, half a working day is assumed.

According to information from the Deutscher Tierschutzbund from 2019, thousands of animal fairs take place in Germany every year, with more than 740 in Bavaria alone. On the basis of this information, it is estimated that around 4 700 animal fairs take place every year throughout Germany.

In addition, checks will normally involve at least two persons, namely one official veterinarian who, depending on the circumstances, is accompanied/assisted by an external expert (e.g. a specialist in reptiles) or a person at *gehobener or mittlerer Dienst* payscale level.

The wage rate for the official veterinarian corresponds to the wage costs for *höherer Dienst* payscale employees at Land level (EUR 65.20).

For the costs of the second person, the wage rate corresponds to the average wage costs at administrative level of the Länder (EUR 43.80).

Annual compliance costs are estimated at around EUR 2 049 000.

Requirement 4.3.21: Processing notifications for animal shows; § 16(1b)

The notification from requirement 4.2.19 is to be processed by the competent authority.

According to the authorities' time value table for low-complexity activities, the time required for processing a notification is estimated at 15 minutes per case (Standard activity 3 Formal examination, Data inspection 5 minutes, Standard activity 5 Substantive examination, Record data 8 minutes, Standard activity 14 Copying, archiving, distributing 2 minute).

The wage rate corresponds to the average wage cost at administrative level of the Länder (EUR 43.80).

The number of animal shows concerned cannot be determined, so it is not possible to calculate the annual compliance costs at this point. Compliance costs of up to EUR 100 000 can be assumed.

Requirement 4.3.22: Anonymously establishing contact with providers of advertisements for live animals on online platforms for the purpose of determining their identity ('fictitious purchases'); § 16(2) second sentence Animal Welfare Act

Change in annual compliance costs of the federal states:

Number of cases	Time expenditure per case (in minutes)	Hourly wage (in EUR)	Material costs per case (in EUR)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
100	207	43.80		15	
Change in compliance costs (in thousands of EUR)				15	

The new rule allows the competent authorities to contact a suspicious provider of animals in the context of 'fictitious purchases' in order to establish their identity or whereabouts of the animals offered. The aim is, in particular, to combat the illegal trade in pet animals.

The number of cases is similar to requirements 4.2.14 and 4.3.14.

According to the time value table for the authorities, for Standard activity 16 Medium-complexity monitoring and supervision measures, the time required is estimated to be 207 minutes per case.

The wage rate corresponds to the average wage cost at administrative level of the Länder (EUR 43.80).

Annual compliance costs are around EUR 15 000.

Requirement 4.3.23: Checking of animal by-product processing plants, including collection, seizure and sending of carcasses for further examination; § 16m Animal Welfare Act

Change in annual compliance costs of the federal states:

Number of cases	Time expenditure per case (in minutes)	Hourly wage (in EUR)	Material costs per case (in EUR)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
240	240	65.20		63	
Change in compliance costs (in thousands of EUR)				63	

The comments on compliance costs are essentially replicated and partly updated from the estimate for the 2021 draft amendment to the Animal Welfare Act concerning animal by-product processing plants, which has not yet been implemented.

Checks of animal by-product processing plants, including collection, seizure and sending of carcasses for further examination, are being introduced. According to information from the Federal Statistical Office, around 20 plants will generally be subject to such checks in Germany. It is assumed that each plant will be checked on a monthly basis. According to information from the OnDEA database, other on-the-spot checks on plants requiring similar work steps have an average time required of half a working day, which is approximately 240 minutes. The time required may vary depending on the type and size of the plant in the individual case. The checks are expected to be carried out by highly skilled employees, for whom a wage of EUR 65.20 per hour can be assumed. The competent authority may examine carcasses, take samples from carcasses and seize carcasses and transport them to an establishment for further examination. The cost of this can vary greatly depending on the species and the type of examination or sampling. This results in the following calculation: 12 checks x 240 minutes/60 minutes x EUR 65.20 x 20 animal by-product processing plants.

Annual compliance costs are around EUR 63 000.

Requirement 4.3.24: Compensation for animal by-product processing plants for the costs incurred by the newly introduced measures; § 16m Animal Welfare Act

Change in annual compliance costs of the federal states:

Number of cases	Time expenditure per case (in minutes)	Hourly wage (in EUR)	Material costs per case (in EUR)	Staff costs (in thousands of EUR)	Material costs (in thousands of EUR)
240	60	65.20	1	16	0
Change in compliance costs (in thousands of EUR)				16	

The comments on compliance costs are essentially replicated and partly updated from the estimate for the 2021 draft amendment to the Animal Welfare Act concerning animal by-product processing plants, which has not yet been implemented.

Mirroring requirement 4.2.22, claims from animal by-product processing plants for compensation will be processed by the competent authority. Claims for compensation are expected to be examined and processed by highly skilled employees. This means that a wage rate of EUR 65.20 per hour can be assumed for höherer Dienst payscale level employees (Land). According to the BMEL's estimates, the exact time needed for processing can be about 60 minutes. It can also be assumed that approximately EUR 1 per case will be incurred as material costs for sending a notice or similar. This results in the following calculation: 12 checks x EUR 65.20 x 20 plants + (12 checks x EUR 1 x 20 animal by-product processing plants).

Annual compliance costs are around EUR 16 000.

Requirement 4.3.25: Establishment of the post of federal animal welfare officer and office premises in the Federal Ministry of Food and Agriculture; § 16n Animal Welfare Act

A federal animal welfare officer is already working under the auspices of the Federal Ministry and has been provided with an office. Their remit and office are not altered by the statutory establishment of the post.

Any additional requirements at federal level are to be covered financially and in terms of staffing in the respective sections of the budget.

Requirement 4.3.26: Checking compliance with the ban on supplying heavily pregnant sheep and goats for slaughter; First sentence of Section 4 Animal Products Trade Prohibition Act

It is prohibited to supply heavily pregnant mammals, including sheep and goats, for slaughter.

Assuming that compliance with the ban will not be checked systematically but only when prompted by events, as part of checks normally carried out, or in suspected cases, the overall compliance costs are negligible.

5. Other costs

There are no other costs to businesses. Likewise, no costs shall be incurred by social security systems. No impact is anticipated on unit prices or the general price level, in particular on consumer price levels as a result of the amendments.

6. Other impacts of the legislation

The draft does not have any equality policy implications. Specific effects on the life situation of women and men are not to be expected, as the act contains only relevant rules. Furthermore, the project has no effect on the equivalence of people's living conditions.

VII. Time limitation; Evaluation

The provisions of this Act are fundamentally being adopted indefinitely. They are not prompted by time-related or situation-related events. No time limitation is therefore envisaged. An exception applies to § 11b(1c). A time limit of 15 years is envisaged here.

This Act is to be evaluated no later than five years after entry into force. In this respect, it is to be checked whether the objective of the Act, namely to close existing legislative and enforcement gaps concerning animal welfare and to comprehensively reinforce animal welfare in the keeping and use of animals, has been achieved. In addition, the actual costs incurred by the holdings must also be evaluated.

Indicators for such evaluation shall include, in particular, data on the following:

- Ability to keep animals tethered or otherwise tie them up (reduction in the number of animals that are kept tethered or otherwise tied up);
- Performance of non-curative interventions (reduction in the proportion of animals in which non-curative interventions have been carried out, reduction in the proportion of non-curative inventions carried out without anaesthesia);
- Animals with cruel breeding characteristics (reduction in the proportion of animals with cruel breeding characteristics presented at exhibitions or in advertising and offered for sale on online platforms);
- Video surveillance in slaughterhouses (reduction in the number of animals affected by breaches of animal welfare legislation; increase in the effectiveness of penalties for breaches identified);
- Organisation of animal fairs (reduction in the number of breaches of animal welfare legislation at animal fairs and markets and in immediate areas around animal fairs and markets);
- Illegal trade in animals (reduction in the number of breaches of animal welfare legislation concerning trade in animals – in particular dogs and cats);
- Animal by-product processing plants (reduction in the number of carcasses received affected by breaches of animal welfare legislation in the original holdings);
- Costs for holdings (costs of completed housing conversions, personnel costs, costs of documentation and proof requirements, etc.); and
- Penalties and fines (increase in penalties and/or fines imposed by the courts or competent authorities).

In particular, surveys in the holdings affected, among animal keepers concerned and at the authorities competent under § 15(1) first sentence of the Animal Welfare Act under Land-level law shall provide the basis for data.

B. Specific part

Re Article 1 (Amendment to the Animal Welfare Act)

Regarding Number 1

Regarding Letter a

The amendments in § 2a are consequential amendments, as § 2b has established a provision containing special rules on tethered keeping.

Re letter (b)

The addition of the authorisation in § 2a(1b) establishes the basis for the introduction of mandatory marking and registration of dogs and cats. Mandatory marking and registration are intended to improve traceability and thus also to curb illegal trade in dogs and cats. The detailed rules on marking and registration are to be laid down in an ordinance issued by virtue of the added authorisation in the Animal Welfare Act.

Re point 2

§ 2b

Under § 2 point 1, anyone keeping, caring for or required to care for an animal must, inter alia, house the animal in a manner appropriate to its behaviour. In addition, under § 2 point 2, the ability for species-appropriate movement must not be restricted in such a way as to cause an animal pain or avoidable suffering or harm. By keeping animals tethered, their ability to engage in behaviours specific to their species – in particular movement, social and comfort behaviours – is significantly reduced. The restriction on movement behaviours is associated with a high risk of illness and injury (e.g. lameness, metabolic disorders, respiratory problems or skin and hair damage) as well as behavioural disorders, including stereotypical behaviours (e.g. head-shaking, empty chewing, tongue lolling or bar-biting/wood gnawing). Tethered keeping is therefore to be generally prohibited by § 2b and permitted only in very exceptional cases.

Re paragraph (1)

The first sentence of paragraph (1) lays down the general ban on keeping an animal tethered. Tethering of animals for a short period, for example in the context of care measures, does not constitute keeping an animal tethered and is therefore not covered by the ban in the first sentence of § 2b(1). The tethering of animals during transport or in slaughterhouses is also not affected by the rules.

points 1 to 3 set out conditions in which tethered keeping is still permitted.

Under point 1, tethering instructed by a veterinarian as part of veterinary treatment is possible in the individual case.

The tethered keeping of animals intended for use in animal experiments is exempted under point 2 from the ban on tethered keeping. This includes tethered keeping in facilities and holdings where test animals are bred or kept for supply to third parties. Whether it is permissible to keep an animal intended for an animal experiment tethered is determined under § 1(1) point 1 of the Ordinance on the Welfare of Animals Used for Testing. The provisions transpose Directive 2010/63/EU of the European Parliament and of the Council of 22 September 2010 on the protection of animals used for scientific purposes (OJ L 276, 20.10.2010, p. 33). Existing minimum requirements for the tethering of test animals, such as § 1(1) point 1 of the Ordinance on the Welfare of Animals Used for Testing

in conjunction with point 7 of Annex III to Directive 2010/63/EU in conjunction with point 7 of the Annex to Council Directive 98/58/EC of 20 July 1998 concerning the protection of animals kept for farming purposes (OJ L 221, 8.8.1998, p. 23), continue to apply in accordance with § 21(1).

In point 3, the legislator provides that the issuer of the ordinance may grant further exceptions to the ban on tethered keeping laid down in paragraph (2).

Paragraph (2) and paragraph (3)

Under paragraph (2), the legislator provides that the Federal Ministry, as the issuer of the ordinance, is authorised to lay down further exceptions to the ban on tethered keeping. In addition, paragraph (3) authorises the Federal Ministry to lay down further requirements for the tethered keeping of animals, in particular the type of tethering, the duration and the possibilities to be provided for unrestricted movement, as well as requirements on the nature of tethering devices, where necessary for animal welfare.

Re paragraph (4)

As a consequential amendment of the authorisation to lay down regulations on tethered keeping being moved out of § 2a(1) and (2), in line with § 2a(3), the adoption of an ordinance pursuant to § 2b(2) and (3) containing rules on the tethered keeping of animals intended for use in animal experiments or whose tissue or organs are intended to be used for scientific purposes, requires the agreement of the Federal Ministry of Education and Research.

Regarding Number 3

Regarding Letter a

It has proven successful for persons who regularly stun for the purpose of killing or kill vertebrates on a professional or commercial basis to have to provide the competent authority with proof of competence. The purpose of such proof is to ensure that the persons have the necessary knowledge and skills to stun or kill the animals in such a way that they do not suffer any more than unavoidable pain, suffering or harm. The amendment to the third sentence of paragraph (1a) improves the welfare of fish. As regards fish, the exception has so far been that persons carrying out stunning or killing were not required to provide proof of competence if these activities were carried out in the presence of an inspector holding proof of competence. This exemption is now limited to cases in which fish – and, on the basis of § 4(4), cephalopods and decapods – are stunned or killed on board fishing vessels directly after being caught. In such cases, no stunning or active killing generally takes place and it would therefore be disproportionate to require proofs of competence here to the same extent as in the case of land-based slaughter. The effect of the amendment is that, in future, persons to whom this requirement has previously not applied will have to provide proof competence.

Re letter (b)

§ 4(4) stipulates that the provisions of § 4 will also apply to cephalopods and decapods in future. The cephalopod animal group (including octopus, squid and cuttlefish) and decapod animal group (including prawns, shrimp, crayfish, Norway lobster and lobster) are thus being placed on an equal footing with vertebrates when it comes to stunning and killing requirements and the necessary knowledge and skills (competence). There is now sufficient scientific evidence that these invertebrates can be assumed to be capable of consciousness and sensation, which runs contrary to the current unequal treatment.

§ 12(11) of the Ordinance on the Welfare of Animals Being Slaughtered, which lays down the permitted methods of killing crustaceans, continues to apply to the killing of crustaceans, with the proviso that decapods must now generally be stunned before killing in accordance with § 4(4) in conjunction with the first sentence of paragraph (1). Decapods can, for example, be stunned with electricity, as already provided for in § 12(1) second sentence point 3 of the Ordinance on the Welfare of Animals Being Slaughtered.

Re point 4

The amendments to § 4b point 1 letter (d) and (e) concern the authorisation to adopt provisions concerning the knowledge and skills required for stunning and killing animals and proof thereof. These authorisations are now no longer limited to vertebrates, but cover all the animals mentioned in § 4 and § 4a, i.e. also cephalopods and decapods. For the reasons why, please refer to the comments on § 4(4).

Re point 5

§ 4d

§ 4d lays down an obligation for slaughterhouse operators to make recordings of animal welfare-relevant operations at the slaughterhouse. The recordings are to be used by the competent authority's control staff to complement on-site monitoring activities.

The obligation is necessary in order to allow for more comprehensive and effective control by the competent authority of slaughterhouses pursuant to § 16(1) second sentence. It has often only been possible for selected areas and time periods to be inspected during controls by staff of the competent authority of aspects that are relevant to animal welfare at the slaughterhouse. In particular in larger slaughterhouses, many operations involving live animals are, however, carried out at the same time. The control staff need technical assistance in this respect, as introduced by the new § 4d. In particular, by complementing the checks with video recordings from slaughterhouses, the ability of the competent authority to identify any structural deficiencies in slaughterhouses and to optimise the risk analysis on which the controls are based is improved. In addition, the open setting up of cameras may encourage company staff to comply with animal welfare requirements at all times.

The recording, storage, sharing and use of the video recordings involves the processing of personal data of the data subjects. The provision balances the general privacy rights of data subjects under Article 2(1) in conjunction with Article 1(1) of the Basic Law – in particular the right to their own image – with the state aim of animal welfare under Article 20a of the Basic Law. Numerous past breaches of animal welfare legislation in slaughterhouses show that the handling of animals in a slaughterhouse poses an increased abstract risk to animal welfare, as a result of which the encroachment into the general privacy rights of the data subjects, which is limited to what is necessary, is deemed proportionate.

Re paragraph (1)

§ 4d(1) requires slaughterhouse operators to set up video surveillance in slaughterhouses. The obligation to record video will enable the evaluation of relevant animal-based indicators and the handling of animals by staff in all areas at the same time. This will enable the competent authority to identify breaches of animal welfare legislation more effectively and take targeted measures to prevent future breaches. The video cameras must be installed so as to be visible to data subjects and therefore they can adjust their behaviour to the surveillance, as opposed to clandestine recordings. In order to be able to address non-compliance arising from staff handling of animals, it is necessary that, in addition to the animals, the persons working with the animals in the areas named in paragraph

(3) are also recorded. In particular, the video recordings can be used as evidence in criminal and regulatory proceedings as part of task fulfilment.

Re paragraph (2)

The first sentence of § 4d(2) restricts the obligation of slaughterhouses that are fundamentally required to carry out video surveillance to those above a certain size. Compliance costs associated with video surveillance are generally less of a burden for larger establishments. The size of the establishment also dictates how many animals are affected by possible breaches of animal welfare legislation with a systematic cause. Delimitation is by means of thresholds, on which the applicability of further animal welfare and food hygiene legislation depends, and which are already familiar to the authorities and operators, in particular the threshold according to which an animal welfare officer is to be designated in the establishment.

The second sentence of paragraph (2) also allows the competent authority, in an individual case, to require such operations to carry out video surveillance which, in accordance with the first sentence, is not covered by the regulation. Since serious breaches of animal welfare legislation which have become apparent in the past also occurred in comparatively small slaughterhouses which, unlike establishments above the thresholds, are not subject to permanent supervision by the competent authority, § 4d(2) second sentence allows the authorities to order video surveillance of these slaughterhouses in justified cases. For that purpose, it is not necessary for a breach to be proven; reasonable suspicion based on specific facts is sufficient.

Re paragraph (3)

§ 4d(3) specifies the operations at the slaughterhouse which must be covered by video surveillance. Because of the need under data protection law to limit the processing of personal data to what is necessary, only those operations which are particularly relevant to animal welfare are to be recorded in slaughterhouses. These are operations in which breaches of animal welfare legislation are possible from direct handling of animals. This possibility exists from the moment the animals are handed over into the keeping of the slaughterhouse and ends with the death of the animals. However, in order to verify that further slaughter work has not been carried out before the animals are no longer moving or not showing other signs of life, the initial further slaughter work carried out on the animals is also to be recorded (e.g. removal of head or limbs, scolding). The recordings must therefore depict, where applicable, the following process steps: Unloading from means of transport, movement to the resting/waiting area, resting/waiting, movement for stunning, suspension before stunning, stunning, suspension after stunning, movement for exsanguination, making of the sticking cut, exsanguination and what are known as initial further slaughter operations. The division of these process steps into delimitable rooms may differ between holdings.

Before animals are stunned, video surveillance may, in particular, provide information on how the animals are driven or how the containers with animals contained therein are handled and how the animals are housed and cared for. In particular, video surveillance allows conclusions to be drawn, for example, on the use of electric prods and the handling of sick and injured animals. With regard to the latter, video surveillance may also be used to distinguish possible injuries to the animals according to whether they are attributable to their time in the slaughterhouse or upstream process steps (such as transport and keeping).

With regard to stunning and exsanguination, video surveillance allows the performance and effectiveness of these to be assessed, including on-site controls of the stunning effect and any necessary multiple use of stunning techniques ('subsequent stunning').

The recordings must depict the operations in such a way that they are suitable for the control activities of the authority and do not need to cover areas which can be viewed only at unreasonable cost. The authority shall monitor the appropriateness of the setup and the areas covered in accordance with paragraph (5).

In order to identify breaches arising from staff handling of animals, it is necessary that in addition to the animals, the persons handling the animals in the areas named in paragraph (3) are also recorded. In particular, the video recordings can be used as evidence in criminal and regulatory proceedings as part of task fulfilment. However, limiting video surveillance to animal welfare-related operations spatially and temporally restricts the video surveillance to the direct handling of animals. This makes it clear to the data subjects when and where they are being recorded for the purpose of the competent authority's checks.

Re paragraph (4)

The first sentence of § 4d(4) specifies for how long the video recordings must be retained by the slaughterhouse operator. In order to make monitoring by the competent authority more effective, the authority needs a meaningful dataset. Access to the recordings of multiple slaughter and delivery days also makes it possible, in particular, to identify repeated and systematic breaches. At the same time, in light of data protection requirements, data processing must be limited to what is necessary and, in this context, the principle of data minimisation must be respected in particular. This is taken into account by limiting data retention to 30 slaughter days. In order not to break up coherent operations and thus to hamper the detection of breaches, it is also necessary to store recordings for the relevant day of delivery, if this is the day preceding the day of slaughter. The recordings must be made available to the authority by the slaughterhouse for each working day in a commonly used format.

The second to fourth sentences of paragraph (4) govern, from the perspective of data protection law, the documentation of retrievals and the handling of log data produced in this respect. The data recorded as part of the documenting retrievals may be used for data protection controls by the establishment's data protection officer and by the competent data protection supervisory authority.

The fifth sentence of paragraph (4) governs deletion by the slaughterhouse operator. Under the fifth sentence of § 4d(4), the operator of the slaughterhouse must automatically delete the recordings after the retention period has expired. Further storage by slaughterhouse operators outside the purposes of official controls is governed by the general data protection requirements.

The provision in the seventh sentence of paragraph (4) makes it clear that processing by the slaughterhouse beyond its obligation to the authority is possible in compliance with the general data protection provisions. In particular, the case law of the Bundesarbeitsgericht (Federal Labour Court) on employee data protection must be taken into account.

Re paragraph (5)

The first sentence of paragraph (5) governs the obligation of the authority to inspect the video recordings, while the eighth sentence governs the authority's necessary rights for that purpose. The authority is required to check video recordings on a random basis as part of its supervision pursuant to § 16(1) point 2 Animal Welfare Act. If there is evidence to suggest non-compliance with animal welfare legislation, it must also inspect the recordings. The processing of personal data by the competent authority is restricted in this respect to the purpose of the control, and therefore data subjects do not have to fear that their behaviour which is not relevant to animal welfare will not be monitored by the authority.

The third sentence of paragraph (5) governs the deletion of data when the authority stores the data. Once the recordings have been inspected by the authority, the personal data is no longer necessary for the purposes for which it was collected and is therefore to be erased by the authority without delay.

The fourth and fifth sentences of paragraph (5) govern the possible further processing of recordings and an obligation to delete them following such further processing. If the check indicates breaches of animal welfare legislation, the purpose of data collection continues and the authority may further process the video recordings in the context of administrative, regulatory or criminal proceedings.

Re paragraph (6)

§ 4d(6) requires the authority to check the technical setup of the video surveillance and the practicability of data transmission. In order to ensure the suitability of the video recordings for checks by the competent authority, the authority is authorised to check the arrangements after it has been set up and in the event of any relevant changes to the slaughterhouse. In addition, in order to avoid the use of unusual transmission methods, the authority may check the practicability of the form of data transmission chosen by the slaughterhouse.

Re paragraph (7)

§ 4d(7) enables an ordinance regulating the details to be issued. In order to lay down further details concerning video surveillance, in particular technical details, § 4d(7) authorises the Federal Ministry of Food and Agriculture to issue an ordinance. Under the second sentence of § 16(6), the Federal Ministry is already authorised to lay down the detailed arrangements for the collection and use of personal data by the competent authority by means of an ordinance.

Re point 6

The destruction of the tissue of a vertebrate and the performance of an intervention associated with pain without anaesthesia are generally prohibited, unless there are reasonable grounds for doing so. In determining whether there are reasonable grounds, account must also be taken of the further development of the available veterinary standards. As a result of this further development, § 5(3) must be amended.

Letter (a)

§ 5(1) fourth sentence is to be repealed on the basis of current scientific knowledge for simplification purposes.

Regarding Letter b

Regarding Double letter aa

Under the Animal Welfare Act, both the destruction of tissue of a vertebrate and the performance of interventions associated with pain without anaesthesia are generally prohibited. To date, the law permitted an exception for the castration of male cattle under four weeks of age. Male calves are usually castrated in order to prevent uncontrolled reproduction or to allow the animal to continue to be kept (e.g. in bullock fattening operations). However, castration involves considerable pain, suffering and harm to the animals concerned.

Under § 1 second sentence, no one may cause an animal pain, suffering or injury without good reason. There is now an appropriate alternative, namely using anaesthetic and

painkillers during the intervention, which significantly reduces the stress on the animals and also takes account of practicability. There is therefore no longer good reason for inflicting pain on calves by not using anaesthesia during castration.

The exemption from the anaesthesia requirement laid down in § 5(3) point 1 for the castration of cattle under four weeks of age is therefore being repealed.

Double letter (bb)

The exception allowed for in § 5(3) point 2 is to be deleted. As a result of the thermal cauterisation of the horn buds by means of a hot iron or ring (thermal cauteriser) and the resulting burns, this intervention is associated with considerable pain, suffering and harm to the animals concerned. To date, the law has permitted an exception from the anaesthesia requirement for dehorning or preventing horn growth by cauterisation of the horn buds for calves under six weeks of age if the intervention is essential for the intended use of the animal with regard to its welfare or the welfare of other animals.

The use of local anaesthetic provides an appropriate alternative that significantly reduces the stress on the animals and also takes into account practicability. There is therefore no longer good reason for inflicting pain on calves by not using anaesthesia during dehorning or preventing horn growth.

The exception in the second half sentence of § 5(3) point 3 for docking, without anaesthesia, the tails of lambs under eight days of age must be deleted for the same reasons as the exception for the docking, without anaesthesia, of the tails of lambs under eight days old using elastic rings in § 5(3) point 4.

To date, the law has permitted an exception for the docking of the tails of lambs under eight days of age if this is essential for the intended use of the animal with regard to the welfare of the animal or the welfare of other animals. Tail docking in lambs is justified on the basis of improved slaughter, breeding and/or shearing hygiene in the animals concerned, which in particular also reduces the risk of infestation with fly maggots ('myiasis'). However, the application of rubber rings to the tail vertebrae and the subsequent death of tissue results in considerable pain, suffering and harm to the animals concerned.

There is now sufficient scientific and practical knowledge indicating that the docking of tails in lambs is no longer necessary for their welfare or for the welfare of other animals. Appropriate methods and options are now available to sheep farmers for keeping sheep with undocked tails. The focus is on the implementation of measures with respect to feeding, parasite management, shearing and herd management and genetics (especially targeted breeding for short tails), which can ensure adequate slaughter, breeding and shearing hygiene. These methods can, in particular, effectively minimise the risk of myiasis in sheep with undocked tails.

The exception for docking, without anaesthesia, the tails of piglets under four days of age is also to be limited to piglets kept as farm animals for commercial purposes.

Double letter (cc)

The order is to be adjusted as a result of the deletions in paragraph (3).

Re point 7

Letter a

Double letter aa

Triple letter aaa

As a result of the amendments to § 5(3), the reference must be adapted.

Triple letter (bbb)

Re point 2a

The current age limit in § 6(1) second sentence point 2a is to be deleted. In particular, where anaesthesia is injected by a veterinarian, piglets can benefit if they are slightly older at the time of castration. In this case, in accordance with the addition of § 6(1) third sentence, the intervention would have to be carried out by a veterinarian.

point 2a is being reworded in order to clearly transpose the requirements of Directive 2008/120/EC. According to this provision, the castration of male pigs must not be carried out by removing tissue.

Re point 2b and point 2c

These are consequential amendments due to the deletion of the current § 5(3) point 2 and the amendment of § 5(3) point 1.

Re point 2d

The docking of tails in piglets attempts to counter the behavioural disorder of tail biting and the resulting injuries. Tail biting occurs when pigs reach the limits of their adaptability due to housing, nutrition or care being inadequate for their behaviour. However, the docking of tails merely reduces the risk of tail biting and does not eliminate the root cause of the problem. The act of tail docking causes acute and, in some cases, continuing pain for the pigs.

Point 2d specifies in greater detail the existing legal requirement under § 6(1) second sentence point 3 in conjunction with § 5(3) point 3, according to which the intervention in the individual case must be essential for the future use of the animal with regard to its welfare. The requirements already laid down since 2018 in the national action plan to improve controls to prevent tail biting and reduce tail docking in pigs (Action plan to prevent tail docking) have been taken into account for this purpose. At the same time, the requirements set out in point 8 of Chapter I of Annex I to Council Directive 2008/120/EC of 18 December 2008 laying down minimum standards for the protection of pigs are being clarified, taking into account Commission Recommendation 2016/336¹² and audit recommendations Nos 3 and 5 of DG SANTE Audit 2018-6445.

The requirement already laid down in § 6(1) point 3 that the intervention must be carried out only in an individual case is continued in letter (a). This continues to take account of the requirement laid down in point 8 of Chapter I of Annex I to Directive 2008/120/EC that this intervention must not be carried out routinely.

¹² Commission Recommendation (EU) 2016/336 of 8 March 2016 on the application of Council Directive 2008/120/EC laying down minimum standards for the protection of pigs as regards measures to reduce the need for tail docking.

In addition, letter (b) stipulates that no more than one third of the tail may be docked in accordance with the 'Implementation Notes for Pigs' in the Animal Welfare Monitoring Handbook for Keeping Farm Animals issued by the Animal Welfare Working Group of the Länder Consumer Protection Working Group (as at April 2023).

In order to carry out the intervention, letter (c) stipulates that the keeper of the piglet must have a declaration concerning a holding for which the piglet is intended that either a reduction strategy is in place for that holding or that tail or ear injuries have occurred in more than five per cent of the animals, that a risk analysis and assessment has been carried out in this regard and measures have already been taken to prevent tail and ear-biting. As the tail or ear injuries do not occur at the time of the intervention (suckling phase), letter (c) is linked to later keeping stages.

Triple letter (ccc)

This is a consequential amendment due to the changes in § 5(3).

Double letter bb

Triple letter aaa

In the case of dehorning and castration of cattle, the intervention can fundamentally also be carried out by persons other than veterinarians, provided that there is no finding of abnormal anatomical characteristics. In order to achieve safe and appropriate intervention for the animals in cases of abnormal anatomical findings (e.g. cryptorchidism) and to prevent complications, these interventions must be carried out by a veterinarian.

Triple letter (bbb)

The amendment takes account of the second sentence of the third paragraph of point 8 of Chapter 1 of Annex I to Directive 2008/120/EC, according to which castration of piglets after the seventh day of life may only be carried out by a veterinarian under anaesthesia followed by the use of pain-relieving products.

Re cc

Re aaa

This is a consequential amendment due to the addition of new point 2d.

Triple letter (bbb)

These are consequential amendments. If there is no finding of abnormal anatomical characteristics, castration or dehorning of cattle may also be carried out by a person other than a veterinarian, provided that they have the necessary knowledge and competence to do so.

Double letter (dd)

The amendment to the fifth sentence specifies in greater detail the obligation to reduce pain during the interventions referred to in the second sentence of § 6(1) which must be carried out under anaesthetic in accordance with § 5. The pain of an animal resulting from the intervention must be reduced to an absolute minimum even after the anaesthetic wears off. In order to avoid gaps in treatment, it is necessary to take into account the sometimes very different durations of the action of painkillers and that the application of pain care may need to be started before the intervention. The amendment to the fifth sentence extends the obligation to manage pain, including in pigs under seven days of age in

the case of surgical piglet castration. The requirements of Directive 2008/120/EC laying down minimum standards for the protection of pigs are being transposed. The amendment to the provision has no impact on the type of medicinal products which are already to be used under the current rules.

The sixth to eighth sentences lay down the required retention obligation for the declaration referred to in point 2d letter (c) and the necessary data protection rules.

Re letter (b)

This is a consequential amendment due to the deletion of the current paragraph (3) first sentence point 3 and § 5(3) point 4.

Re letter (c)

The exception for docking the tails of male calves under three months of age by means of elastic rings, provided that this intervention is essential for the intended use of the animal, is to be deleted. Docking is carried out in order to avoid tail injuries in bull calves and the consequent death of the tail tip. Such injuries may be caused or encouraged by inadequate housing conditions (e.g. excessive stocking densities, fully slatted floors, unsuitable lying areas). By improving housing conditions, there is therefore an alternative that renders the intervention largely superfluous.

Tail docking using elastic rings entails considerable pain, suffering and harm to the animals concerned. Under § 1 second sentence, no one may cause an animal pain, suffering or injury without good reason. Appropriate alternatives to routine tail docking are now available, which significantly reduce the stress on the animals and also take account of practicability. In particular, by improving or adapting housing conditions, it is possible to significantly reduce the risk of these injuries occurring.

There is therefore no longer good reason for inflicting pain on calves by docking their tails using elastic rings.

Letter (d)

These are consequential amendments due to the new point 2b in paragraph (1) and the amendments to § 5(3) and the new point 2d in paragraph (1). For the tail docking intervention in piglets, the declaration referred to in paragraph (1) second sentence point 2d letter (c) constitutes appropriate proof. It must be clear that the owner of the piglet on which the intervention was carried out already had the declaration at the time of the intervention.

Re point 8

This is a consequential amendment due to the creation of the new § 2b.

Re subparagraph 9

Re letter a

This is a consequential amendment due to the rewording of § 11(4).

Re letter (b)

These are consequential amendments due to the deletion of the second sentence of § 11(1).

Re letter (c)

The purpose of the authorisation is to establish the conditions for being able to lay down, by means of ordinance, the keeping of stock records in the course of commercial trade, commercial breeding and keeping of live animals in accordance with § 11(1) point 8 letter (a) and (b). Such stock records allow a detailed overview of the current animal stock, its changes and the reasons for it. Developments relevant to animal welfare, such as increased mortality, are thus easier for both animal keepers and supervision authorities to identify. The recommendation to introduce a legally binding, uniformly applicable nationwide requirement for the keeping of stock records for the commercial trade in pet animals is a result of scientific and practical investigations. In particular, the results of a research project ('Haltung exotischer Tiere und Wildtiere in Privathand: Situationsanalyse, Bewertung und Handlungsbedarf insbesondere unter Tierschutzaspekten'), carried out on behalf of the Federal Ministry of Food and Agriculture.

To date, the keeping of stock records could only be ordered on an individual basis as an ancillary provision in the context of the granting of permits pursuant to § 11. As the results of the research project have shown, stock records are generally not kept in commercial trade in pet animals. This makes monitoring more difficult and encourages animal welfare breaches. In addition, existing documentation might be disorderly, incomplete and ultimately not comparable, since no fixed criteria have been laid down for keeping stock records. § 21 of the Livestock Transport Ordinance already requires the keeping of a livestock control register for the commercial trade in farm animals. The information that must be included in the livestock control register is specified in this respect.

The required content of the stock records or similar records may be laid down in the ordinance. However, at least the identity, origin and whereabouts of the kept animals must be recorded. Where marked appropriately, the identification number of an animal shall be used to record the identity of an animal. Alternatively, or in addition, the following information may be required: scientific name of species, breed, approximate age and sex of the animal. The origin criterion may include, inter alia, the place of origin and whether the animal was bred or taken from nature.

Letter (d)

These are consequential amendments due to the creation of the new § 2b and the deletion of the second sentence of § 11(1).

Letter (e)

The rewording of § 11(4) prohibits the keeping or putting on display of animals of certain wild species in changing locations. This concerns elephants, hippopotamuses, giraffes, bears, big cats, rhinos, primates and seals.

The purpose of the provision is to ensure that the animals referred to are kept in a manner which is appropriate to the species and their behaviour. Under § 2 point 1, anyone keeping, caring for or required to care for an animal must, inter alia, house the animal in a manner appropriate to its needs and behaviour. In addition, under § 2 point 2, the ability for species-appropriate movement must not be restricted in such a way as to cause an animal pain or avoidable suffering or harm. Enforcement practice by the competent authorities at Land level as well as research into the needs of these species, shows that the welfare of these species in changing locations cannot be ensured in practice. This is due in particular – to differing extents depending on the species concerned – to lack of space, lack of access to bathing water, inadequate temperature and noise conditions and insufficient opportunities to engage in social behaviour. This leads, among other things, to health problems, behavioural anomalies and disorders in the species mentioned. There are also stresses caused by regular transport, such as circulatory problems, natural

biorhythm disorders or joint diseases. It is therefore not possible to ensure that the species mentioned are kept in a manner appropriate to their species and behaviour in changing locations. A less restrictive measure, both in law and in fact, than a prohibition, is not available to the legislator for the reasons set out above. The introduction of the prohibition ultimately constitutes justified interference in the fundamental rights of animal keepers, taking into account all the interests involved. In particular, the constitutional weight afforded to the interests of animal welfare under the state aim enshrined in Article 20a of the Basic Law justifies the interference. Article 20a of the Basic Law requires the state to protect animals and strengthens ethical animal welfare. In particular, the provision does not deprive people of the freedom to choose an occupation under Article 12 of the Basic Law to the extent that it is no longer possible to pursue a trade or profession. For example, for years there have been holdings which have been successful in putting on display animal species not covered by the ban or in refraining completely from putting on display animals. The possibility of keeping and putting on display the animals at a fixed location still also remains possible. In addition, the profession of animal keeper or trainer is generally not limited to working with a particular animal species. On the contrary, knowledge and skills acquired in the course of professional careers can fundamentally be transferred to other animal species (not covered by the prohibition). Proportionality is also safeguarded by the narrowly defined exceptions in the second and third sentences and appropriate transitional arrangements; the transitional arrangements mean that animals which are already kept or put on display in changing locations at the time of the entry into force of this amending Act are not covered by the ban.

§ 11(4) second and third sentences lay down exceptions to the prohibition laid down in the first sentence.

The second sentence lays down an exception for zoos and animal enclosures within the meaning of § 43 of the Federal Nature Conservation Act (BNatschG). The current legal requirements for zoos ensure that animals are kept in a manner appropriate to their species and behaviour, so a prohibition under the first sentence would not be proportionate. In particular, § 42(3) BNatschG lays down obligations for operating zoos. Zoos must, inter alia, be operated in such a way that the animals are kept so as to take account of the biological and conservation needs of the species in question, in particular the respective enclosures must be designed in a species-appropriate and welfare-appropriate manner in terms of their location, size and layout and internal facilities (§ 42(3) point 1 BNatschG), the care of the animals must be carried out on the basis of a written programme for animal disease prevention, handling and nutrition in accordance with good veterinary practice (§ 42(3) point 2 BNatschG) and the provisions on animal and species protection (Section 42(3)(4) BNatschG) must be observed. Housing systems in zoos must be designed for permanent animal keeping. Therefore, there are more options here to design these housing systems in a species-appropriate and welfare-appropriate manner, such as in terms of sufficient space, access to bathing water, adequate temperature and noise conditions, and possibilities for engaging in social behaviour. In addition, zoos ensure good veterinary care on the basis of the requirements of § 42(3) BNatschG. In particular, the exception still allows the maintenance of coordinated ex situ conservation programmes between zoos. The transport of specimens of the species concerned is essential to ensure, in particular, genetic exchange, sensible mating, the putting together of breeding groups and the distribution of offspring.

With regard to animal enclosures, § 43(2) point 1 BNatschG refers to the requirements for operating zoos laid down in § 42(3) points 1 to 4. Animal enclosures must also be designed for the permanent keeping of animals which is why, like zoos, there are already more options here for designing these housing systems in a species-appropriate and welfare-appropriate manner. Good veterinary care must also be ensured in animal enclosures.

The third sentence provides for an exception to the ban in cases where the keeping or putting on display of the animal in question in changing locations involves no pain, suffering or harm. In these individual cases, it can be assumed that the animals referred to are being kept in a species-appropriate and welfare-appropriate, despite the changing locations. A prohibition under the first sentence is therefore not necessary in such individual cases. Conversely, if there is doubt as to whether the keeping or putting on display of the animal in question involves any pain, suffering or harm, the prohibition under the first sentence shall apply.

For the keeping or putting on display of animals in changing locations to not involve any pain, suffering or harm to the animal in question, as a minimum the duration of the transport and the frequency of change in location must not have an adverse effect on the health of the animal concerned (point 1) and the respective locations must be suitable for keeping the animal in question and must meet the requirements of § 2 point 1 and 2 of the Animal Welfare Act (point 2). The latter may be the case, in particular, where the housing conditions and the housing environment in the different locations are equivalent to those of a permanent housing system.

Letter (f)

This is a consequential amendment due to the deletion of the second sentence of § 11(1).

Letter (g)

Practical experience to date has revealed a fundamental problem: The current provisions of the Animal Welfare Act on tail docking in pigs are aimed exclusively at those who carry out the intervention, i.e. in the context of sow keeping. The subsequent keepers of animals with docked tails have been ignored. However, tail and ear injuries in pigs do not usually occur in sow keeping (i.e. not during the suckling phase) but only in subsequent keeping stages (e.g. piglet rearing and/or fattening). In order to minimise the occurrence of tail and ear injuries and ultimately to avoid tail docking in piglets, it is therefore necessary to adapt the specific housing conditions and management in these holdings. However, more important than the intervention itself is the suffering caused by inadequate housing conditions and the associated overburdening of the animals, which ultimately leads to the behavioural disorder of tail biting.

Re paragraph (9)

The first sentence of § 11(9) therefore lays down specific conditions under which pigs with docked tails may be kept. The keeper of pigs with docked tails must record any tail or ear injuries that have occurred, carry out a risk analysis and the associated improvement measures in accordance with Commission Recommendation (EU) 2016/336 of 8 March 2016 on the application of Council Directive 2008/120/EC laying down minimum standards for the protection of pigs as regards measures to reduce the need for tail docking. These requirements form the basis for the declarations that the keeper must have in order to prove that tail docking in pigs is essential pursuant to § 6(1) second sentence point 2d letter (c), and are already an essential part of the National action plan to improve controls to prevent tail biting and reduce tail docking in pigs (as at: 2018).

The number of animals with tail or ear injuries found during the daily check of the herd must be surveyed in accordance with point 1 letter (a) and recorded without delay. If no animals with injuries are found, there is no obligation to keep a record.

The intervals for calculating and carrying out the risk analysis and assessment referred to in point 1 letter (b) and (c) are determined on the basis of the normal length of a fattening cycle. This also takes into account audit recommendations Nos 3 and 5 of DG SANTE Audit 2018-6445.

In point 2, the minimum percentage of animals with tail or ear injuries in a holding above which pigs with docked tails may be kept is fixed at five per cent, in accordance with experience to date under the Action plan to prevent tail docking and in light of the limit values chosen in other areas.

If the keeper does not reach the limit value laid down in point 2, he may continue to keep a steadily decreasing number of animals with docked tails as part of a reduction strategy.

The second sentence sets out the parameters which the risk analysis and assessment referred to in the first sentence point 1 letter (c) must cover as a minimum. These concern those aspects of keeping that have an impact on animal welfare.

The third sentence lays down requirements for the production and storage of records and their submission to the competent authority.

Re paragraph (10)

Paragraph (10) lays down the requirements for the reduction strategy to be drawn up by the keeper. The reduction strategy can be drawn up and created by the animal keepers themselves, as is the case in the Action plan to prevent tail docking. Its purpose is to allow animal keepers to gain gradual experience in keeping animals with undocked tails. The reduction strategy must be designed in such a way that housing conditions are continuously improved by means of appropriate and continuous risk analyses and assessments, in order ultimately to avoid routine keeping of pigs with docked tails.

The third sentence lays down requirements for the production of records and their submission to the competent authority.

Re point 10

This is a consequential amendment due to the deletion of the second sentence of § 11(1).

Re point 11

§ 11b

As currently worded, paragraph (11b) already prohibits 'cruel breeding'. Cruel breeding can take very different forms and manifest itself in very different disease patterns, making it impossible to unambiguously describe in a correct and simple manner. The decision on whether a case of cruel breeding exists must be taken on a case-by-case basis by the authorities responsible under Land law for enforcement of the Animal Welfare Act.

Re paragraph (1)

The prohibition in paragraph (1) remains unchanged.

Paragraph (1a)

§ 11b(1) includes, inter alia, a prohibition on breeding vertebrates insofar as breeding-related knowledge suggests that, as a result of breeding, body parts or organs in offspring will be genetically missing or will be unfit or deformed for species-appropriate use, causing pain, suffering or harm. Paragraph (1a) adds a non-exhaustive list of illustrative symptoms which may be caused by genetic modifications to body parts or organs. The symptoms listed may be indicative of cruel breeding. However, the decisive factor remains the fulfilment of the conditions laid down in paragraph (1), in particular the existence of pain, suffering or harm. The current ban on breeding is merely being specified in greater detail, without its scope being changed. The detail also takes account of the individual animal.

There is no provision for a blanket ban on the breeding of certain breeds. Rather, the list of symptoms is intended to assist breeders in particular as the parties being addressed by the legislation in identifying and assessing whether planned breeding is contrary to the breeding ban laid down in § 11b(1).

Paragraph (1b)

In view of the original purpose of the Act, which is to comprehensively prevent cruel breeding, the existing ban on cruel breeding, which has not proved to be a sufficient means of achieving that objective to date, is being specified in greater detail. While the prohibition laid down in paragraph (1) is based on the potential existence of pain, suffering or harm in the offspring caused by cruel breeding, the only relevant factor in paragraph (1b) is the existence of pain, suffering or harm in one of the parent animals, irrespective of how many of the offspring will ultimately be affected by the modification or disorder (i.e. the carriers of the characteristic). Specifying the ban on cruel breeding in the form of alleviating the burden of proof with regard to the breeding prediction is suitable and necessary for averting pain, suffering or harm in the breeding line, since the genetic predisposition to the corresponding cruel breeding characteristic in accordance with generally recognised genetic principles is further passed on to at least some of the following generations ('genetic carriers'). This, in turn, means that the modification or disorder can re-emerge in the second or later generation without being developed in the offspring of this first generation. In order to avoid with certainty such indirect passing on of pain, suffering or harm, only animals without phenotypic cruel breeding characteristics are to be used for breeding. In addition, female mammals suffering from pain, suffering or harm due to genetic disorders or modifications should be spared from the additional efforts of pregnancy, birth and lactation. This is particularly the case where, due to the physical condition of the animal, reproduction or birthing is no longer possible naturally.

The effect of current rules banning cruel breeding is insufficient. Despite the most recent amendment to § 11b in 2013, there has been no significant improvement in the status quo. Abandoning the breeding prediction where cruel breeding characteristics already exist should change this. The associated interference with the freedom of ownership under the first sentence of Article 14(1) of the Basic Law and, in the case of commercial breeders, with the freedom to choose an occupation under the first sentence of Article 12(1) of the Basic Law is justified by animal welfare as an equivalent constitutional interest under Article 20a of the Basic Law. It is therefore necessary to prevent breeding that causes pain, suffering or harm to an animal. As a general rule, the cruel breeding characteristics of the parent animal are passed on to the offspring during breeding and therefore the characteristic relevant to cruel breeding, including the associated pain, suffering or harm, continues to spread. However, even when mating with a healthy animal, there is a real risk of further spreading pain, suffering or harm in the breeding line due to the passing on of the relevant defective gene. When balancing basic rights, account must be taken of the fact that no property is confiscated and the breeding itself is not prohibited, but only the breeding of animals which suffer genetically from pain, suffering or harm. In this respect, it is merely a provision on content and limits under the second sentence of Article 14(1) of the Basic Law or a provision on the exercise of a profession. Since in most cases the above-mentioned consequences were not happening accidentally, but could be expected on the basis of breeding-related knowledge, the ban on cruel breeding laid down in § 11b(1) would appear to have been already been infringed. For this reason, breeders cannot have a legitimate expectation that they would be allowed to continue breeding with the animal that has cruel breeding characteristics. Overall, the interests of animal welfare therefore outweigh the interests of breeders in breeding with an animal with genetic modifications or disorders associated with pain, suffering or damage.

The provision in paragraph (1b), like the prohibition laid down in paragraph (1), applies to all persons who intentionally mate two animals, irrespective of their intention to make a profit. Particularly in the case of defects which are not recognisable from the outside, it is

decisive in this respect whether, on the basis of breeding-related knowledge, i.e. with the knowledge of an averagely well-informed breeder, genetic disorders or modifications are present in the animal. This subjective criterion is objectified by the fact that breeding-related knowledge also includes knowledge obtained on the basis of testing which can be carried out in the context of breeding in an appropriate and reasonable manner. Appropriate and reasonable testing includes, but is not limited to, tests required by breeding associations, but also tests which can be carried out at reasonable cost irrespective of membership in a breeding association, for example for a certain predisposition of the animal.

The ban on breeding also applies regardless of whether the pain, suffering or harm caused by the modification or disorder has now been remedied. Although a remedy by operation (e.g. in the case of brachycephalic obstructive respiratory syndrome) or other treatment (e.g. in the case of epilepsy) may partially or completely relieve the individual animal of pain, suffering or harm, the genetic predisposition remains.

Cases in which the breeding animal is not a carrier of the characteristic but a genetic carrier remain as a separate scope of application for paragraph (1). 'Genetic carrier' refers to animals with a gene defect which are not themselves affected by the disease caused by the gene defect but can pass it on to their offspring. In such cases, the decisive factor is whether the gene defect is likely to cause pain, suffering or harm to the offspring. The mating of two genetic carriers increases the likelihood that their offspring will have the gene defect. The Merle factor is an example here. The Merle factor found in certain dog breeds may result in homozygous Merle puppies when two Merle carriers are mated. This mating often leads to depigmentation of fur, skin and/or iris in the affected puppies, but also to malformations such as deformations of the inner ear and/or eyes. This, in turn, can cause massive harm, such as blindness and deafness.

Paragraph (1c)

The newly inserted paragraph (1c) provides that the mating of two vertebrates, which in principle qualifies as cruel breeding, shall continue to be permitted, provided that the mating is carried out for the purpose of eliminating existing modifications or disorders involving pain, suffering or harm. It must be possible for this breeding objective to be demonstrated by means of an appropriate breeding plan. The breeding plan should contain the following information: Selection and breeding objective, relevant assessment criteria, how genetic defects are surveyed and identified, prohibitions and restrictions on the use of certain breeding animals, identification methods and form of animal registration, size of breeding stock, number of breeders and, where appropriate, the geographical area.

Re paragraph (2)

Paragraph (2) has been supplemented to enable the competent authority to order sterilisation also in cases where a breach of paragraph (1b) or (1c) is imminent or has already taken place.

Re paragraph (3)

These are consequential amendments due to the amendments in paragraphs (1a) and (1b). Clinical purposes have also been added.

Paragraph (3a)

The ban on putting on display animals newly introduced in paragraph (3a) point 1 covers both animals which have been bred or modified contrary to the prohibition on cruel breeding and those with cruel breeding characteristics without these having been deliberately developed. The ban is intended to remove the incentive for breeding, since animals with cruel breeding characteristics may no longer be displayed and, where appropriate, can no

longer win prizes. The aim is to prevent those animals from being perceived by an audience at exhibitions or similar events, thereby increasing demand for them and creating an incentive for breeding animals with corresponding characteristics.

Contrary to the blanket ban on exhibition, which is laid down for example in the Dog Welfare Ordinance, the wording 'put on display' is broader in scope and is intended to prohibit any form of presentation of animals which is predominantly intended for an audience. This includes not only the display of animals in circuses and zoos, but also, for example, competitions if they are not in the animal's interest but are organised in the interest of the keeper or the audience. In particular, the exhibition of animals with cruel breeding characteristics is also covered.

The prohibition in paragraph (3a) point 2 is intended to further prevent animals with typical cruel breeding characteristics from being presented in a trivial manner to a wide audience. In particular, advertising, film and social media as multiplication forms are likely to give the impression of a certain normality that does not reflect the actual suffering of animals with cruel breeding characteristics. In order to protect animal welfare, it is sufficient, in order to be covered by the ban, for the animal publicly put on show to give the impression that it has cruel breeding characteristics, since these usually cause pain, suffering or harm. Private social media posts that are not perceived by a wide audience are not subject to the putting on display ban. In addition, pictorial representations in textbooks or scientific publications, as well as images in publications providing information on animal experiments or scientific content, are not covered by the ban.

Re paragraph (4)

These are consequential amendments due to the amendments in paragraphs (1a) and (1b).

Re Point 12

Re Letter a

The amendments to § 11c add cephalopods and decapods to the existing requirement concerning the supply of live vertebrates to children and adolescents. For the reasons why, please refer to the comments on § 4(4).

Re b

Re paragraph 2

§ 11c(2) prohibits the supply of cephalopods and decapods, intended for use as food, to the final consumer. The transport of live animals, their storage until slaughter and their actual stunning and killing entail a higher risk of deficient animal welfare when these activities are carried out by end users rather than by specialised companies. Risk factors include, in particular, the knowledge and skills (competence) of the persons carrying out the activities and the facilities and equipment at their disposal, in particular for stunning and killing. The provision is also proportionate because it continues to allow the food concerned to be consumed.

Re paragraph (3)

The aim of the new provision is to bring the arrangements for commercial trade in pet animals in line with the animal welfare requirements in such a way as to restrict the offering for sale and the supply of pet animals in certain places accessible to the public. The aim is to stop trade in pet animals that is in breach of animal welfare legislation. This applies in particular to traders who, despite carrying out a commercial activity within the meaning of

§ 11(1) point 8 letter (a) or (b), do not hold a corresponding permit and have therefore not demonstrated competence. However, the number of pet animals supplied as a result of spontaneous purchases in animal shelters is also to be minimised. When an animal is offered for sale in public spaces, the risk of an unconsidered spontaneous purchase is particularly high. Moreover, when the animal is supplied in a public space, the future keeper does not normally get any personal impression of the conditions under which the animal has been kept so far. However, this information is particularly important in order to better assess the animal as a whole. For example, in the case of puppies and kittens, socialisation at the breeder's premises plays a significant role in the subsequent development of the animal and its suitability for subsequent keeping. When animals are offered for sale and supplied in public spaces, unlike when supplied in the premises of the breeder or trader, breeding and housing conditions that are contrary to animal welfare may be more easily concealed from the future keeper. There is also a risk that animals may not be handled in accordance with animal welfare requirements while they are being offered for sale or supplied, or that the animals will not be housed, transported and cared for in accordance with animal welfare rules.

The decisive factor here is that the public roads, paths and open spaces are publicly accessible and therefore private but publicly accessible car parks are also covered by the ban, as are leisure facilities. Offering for sale means that the animal must be present on site. On the other hand, it is not necessary for a sales contract to be concluded. Supply means the transfer for own power of disposal over the animal, irrespective of the underlying legal transaction.

Farm animals within the meaning of the Farm Animal Welfare Ordinance and horses are not covered by the ban because the above considerations can only be applied to these animals to a limited extent or the problem of illegal trade does not exist in this respect. Animal fairs and shows, the implementation of which requires a permit, are excluded because they are subject to special official supervision, which ensures that the animals are handled in a manner compatible with animal welfare. The new § 16(1) ninth sentence will also increase the official presence on animal fair.

Re point 13

§ 11d

Illegal animal trade ranges from individual breaches, e.g. of documentation requirements and unlawful transport conditions, through to multiple simultaneous breaches of different aspects of the law. For this reason, for example, the illegal trade in puppies and dogs can only be curbed by a combination of measures. This includes, in particular, improvements in the online offering of animals, which facilitates illegal trade by enabling animals to be offered anonymously.

The addition of § 11d therefore lays down requirements for the online offering of animals, which ensure standardised traceability to the respective vendor of an animal and improve the possibilities for the competent authorities to check the vendor on the basis of the first sentence of § 16(2). This will also have a deterrent effect on illegal vendors. At the same time, a resolution of the Bundesrat (document 697/21, point 4) is being acted on. This calls on the Federal Government to lay down mandatory regulations on the organisation of animal fairs and online trade in wild animals by means of appropriate legislation, in particular for private operators, and to prohibit the anonymous offering of wild animals.

Re paragraph (1)

The purpose of the first sentence of paragraph (1) is to identify the persons who are offering animals for sale on the Internet. Trade in pets in Germany is now largely based on online platforms. As a result of the anonymous offering (usually without name and address)

on these platforms, the competent authorities are unable from the outset to protect the animals sold in many cases. In particular, illegal trade in puppies and dogs exploits the anonymity of online trade. The provision requires persons offering animals for sale online to provide their name and address to the online platform. Online platforms are all online platforms as defined in Article 3(i) of the Digital Services Act, and therefore include social networks. Where the animal offered is voluntarily or compulsorily marked, the transponder number or other marking by means of which the animal can be clearly identified must also be provided. As regards marking requirements, Article 17 of Regulation (EU) No 576/2013 of the European Parliament and of the Council of 12 June 2013 on the non-commercial movement of pet animals and repealing Regulation (EC) No 998/2003 is decisive. Other markings, by means of which the animal can be clearly identified, may be, for example, the markings for protected species under § 12 et seq. of the Ordinance on the protection of wild fauna and flora and Chapter XVI of Commission Regulation (EC) No 865/2006 of 4 May 2006 laying down detailed rules concerning the implementation of Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein. The data is to be accessible only to the competent authority within the limits of its official powers and is not to be available to the public. The obligation of online platforms allowing traders to conclude distance contracts with consumers to request the necessary information from traders under Article 30 of Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act) remains unaffected by this provision.

The provision in the second sentence of paragraph (1) makes it clear that, in the exercise of its official powers under the first sentence of § 16(2), the competent authority receives the name and address of persons offering animals for sale online from the online platforms based in Germany so that it can start further investigations. The competent authority shall collect, store and use the data on the basis of § 16(6).

By ensuring that information is provided in full within a time limit to be set by the competent authority in the third sentence of paragraph (1), the aim is to prevent the effectiveness of official checks from being compromised by lengthy requests for information.

For online platforms established in another Member State, Article 3(2) of the Directive on electronic commerce (Directive 2000/31/EC of 8 June 2000) stipulates that the rules of the country of establishment apply. The authority's request for information and the processing by the operator of the online platform shall in all cases comply with the requirements of Article 10 of Regulation (EU) 2022/2065 as a minimum.

Re paragraph (2)

The provision in paragraph (2), in addition to the information referred to in the first sentence of paragraph (1), makes it possible to determine the extent of online trade in animals. The number and content of advertisements for live animals is data which is already collected by the online platform in order to provide the service and is under the platform's control, and therefore such data may be queried in the context of a request for information from a public authority pursuant to point (b) of Article 10(2) of Regulation (EU) 2022/2065. The information may be necessary for the effective enforcement of animal welfare legislation, as animal sellers operating in a concealed manner often deliberately appear as private sellers, although the scope of their activities is usually of a commercial nature. Vendors thereby deliberately circumvent the official controls under § 16(1) and frustrate the animal welfare objective. The competent authority shall collect, store and use this data too on the basis of § 16(6).

Re paragraph (3)

In addition, paragraph (3) adds a rule prohibiting the online offering of vertebrates with cruel breeding characteristics and vertebrates with amputations contrary to animal welfare legislation. The aim is to prevent these animals from being perceived by an audience, thereby increasing demand for them.

Breaches of the first sentence of paragraph (1) or of paragraph (3) mean, inter alia, that the advertisements constitute unlawful content within the meaning of Regulation (EU) 2022/2065 and must be deleted by the platform operators in accordance with the provisions of the Regulation.

Re paragraph (4)

The addition of an authorisation to issue an ordinance in paragraph (4) with regard to requirements for online trade in live animals establishes the basis for laying down detailed rules for certain aspects of such trade in an ordinance. Possible information required for the content of an advertisement may be: the scientific name of the species, age, sex, origin and protection status of the animal.

Re § 11e

Re paragraph (1)

The first sentence of paragraph (1) lays down in law a ban on putting on display, exchanging and selling vertebrates taken from nature at animal fairs. The purpose of the provision is to prevent such animals from suffering as a result of the particular situation at animal fairs. Animals captured in the wild are animals of non-domestic species that are neither accustomed to being under human care nor socialised. Contact with humans and other animals, large numbers of visitors, noise, unfamiliar odours, an unfamiliar environment and transport stress that can be experienced at animal fairs, entail a high risk of serious suffering for such animals.

The second sentence allows an exception in cases where the person who wishes to put the animal on display, exchange or sell it can demonstrate that no significant pain, suffering or harm to the vertebrate animal in question is caused. In such cases, a prohibition under the first sentence is not required.

Re paragraph (2)

Paragraph (2) requires signs to be put up on housing, cages, other containers and other facilities accommodating vertebrates at animal fairs. These signs must indicate in particular the name, origin, sex and age. If the animal is a particularly protected species, information shall also be provided on the species protection status of the animal in order to ensure that the future keeper can comply with possible obligations under species protection law and to avoid potential negative effects on the welfare of the animal resulting from a lack of knowledge of the buyer. In addition, any special keeping requirements and feeding information must also be indicated. The aim is to ensure that interested parties can obtain information about the animal in question quickly and at a glance and, in particular, assess the housing conditions that need to be implemented in order to allow the animal to be kept in a manner appropriate to its species and behaviour. Among other things, the aim is to prevent spontaneous purchases which are not carefully considered and thus to promote animal welfare.

Re paragraph (3)

The person exchanging or offering for sale animals at animal fairs shall ensure that when an animal is supplied to the respective future keeper, all the animal welfare, animal health and species protection documents necessary for the animal in question are handed over in full. The aim is to ensure that the future keeper has all the information available so that the animal can be kept in a manner appropriate to its species and behaviour. The documents to be handed over include, for example, vaccination certificates or documents for complying with the obligation to provide proof under species protection law pursuant to § 46 of the Federal Nature Conservation Act.

Re subparagraph 14

Re letter a

§ 13(2) introduces a ban to the effect that mowing may take place on non-commercial grassland and green spaces after dusk only under certain conditions.

Numerous injuries and deaths in wild animals (e.g. hedgehogs) caused by the use of mowing equipment have been documented. In the case of animals that are active at night, these injuries occur in particular when mowing equipment is used in an unattended manner at night. The resulting pain, suffering or harm to the affected animals can be avoided if mowing equipment, in particular mowing robots, is used during the day instead. Alternatively, other appropriate protective measures may be taken, e.g. mowing equipment may already be fitted with hedgehog protection devices.

Re letter (b)

This is a consequential amendment due to the new paragraph (2).

Re point 15

Letter a

Double letter aa

Triple letter aaa

This is an editorial amendment.

Triple letter (bbb)

This is a consequential amendment due to the deletion of the second sentence of § 11(1).

Triple letter (ccc)

This is a consequential amendment due to the changes in § 13.

Double letter (bb)

This is a consequential amendment due to the deletion of the second sentence of § 11(1).

Double letter (cc)

In § 16, an obligation to check animal fairs is being added in the ninth sentence of paragraph (1). This addition to § 16(1) is intended to ensure that animal fairs at which commercial vendors within the meaning of § 11(1) point 8 letter (a) or (b) are present are also ef-

fectively monitored by the Land-level authorities responsible for enforcing animal welfare law. The frequency and thoroughness of checks are to depend, inter alia, on the size of the animal fair (number of exhibitors, number of animals exhibited, number of visitors) and whether there are any indications of anomalies, for example due to known breaches of animal welfare, animal health or species protection legislation at previous animal fairs organised by the operator.

As part of a study initiated and supported by the Federal Ministry of Food and Agriculture 'Haltung exotischer Tiere und Wildtiere in Privathand: Situationsanalyse, Bewertung und Handlungsbedarf insbesondere unter Tierschutzaspekten (Exopet)', it was discovered, in addition to the anomalies generally identified at animal fairs, that such fairs are only subject to sporadic checks by the Land-level authorities responsible for the enforcement of animal welfare law. In light of the above, the Exopet study concludes that close monitoring of animal fairs and markets could effectively minimise the risk of anomalies. In addition to the welfare-appropriate housing and care of the animals at the fair, the authority can check the existence of the § 11 permit, the presence of competence of sales staff and the provision to purchasers of the information required under § 21(5) on the keeping and care of the animals during the on-the-spot check of commercial vendors.

The check should also include the public areas adjacent to the animal fair. This makes it possible to identify and prevent breaches of animal welfare legislation which may occur in connection with the sale, gifting or exchange of animals in the immediate vicinity of the animal fair, such as the keeping of animals in motor vehicles under unsuitable climatic conditions or in containers that are too small, or the prohibition on offering pet animals for sale on roads, paths and open spaces accessible to the public by commercial breeders or traders, laid down in the new § 11c(3). If there is no indication that animals are being sold, gifted or exchanged on the roads, paths and open spaces adjacent to the animal fair, inspection of these areas may be dispensed with.

Re letter (b)

This is a consequential amendment due to the deletion of the second sentence of § 11(1).

Re letter (c)

By laying down an obligation to notify, the authorities responsible for animal welfare are to be informed at an early stage of any events at which vertebrates are to be put on public display. This will enable them to monitor more effectively compliance with animal welfare legislation (such as the prohibition on the putting on display of vertebrates with characteristics pursuant to § 11b(1)) at the above-mentioned events. This applies in particular to events for which the organiser does not require an official permit pursuant to § 11(1) point 8 letter (d) due to the lack of a commercial aspect, as may be the case with animal breeding shows or animal sports events. The authorities currently become aware of these events, if at all, by chance, which hampers enforcement in this regard.

Putting on display includes, as in § 11(3a), any form of presentation of animals which is in predominantly intended for an audience.

Events which already have to be notified (e.g. under animal disease legislation) do not need to be notified more than once, provided that the same authority is competent.

Letter (d)

The second sentence of § 16(2) establishes the requirement to determine the identity of the persons required to provide information under the first sentence.

The supervisory powers of the competent enforcement authorities laid down in § 16(2) can only be exercised if the identity of a person is known. However, on online platforms in particular, there is the problem that vendors do not reveal their identity and sometimes conceal their identity deliberately. The aim of the new rule is to provide an enabling basis for the competent authorities to contact a suspicious vendor of animals in the context of a 'fictitious purchase', so as to enable them to determine their identity or, at least, the whereabouts of the animals offered. A 'fictitious purchase' is characterised by the fact that, in the pre-contract phase, the authority has no interest in purchasing. After receiving the necessary information, i.e. usually the name and address of the vendor, the authority can then carry out its tasks without anonymity. The aim here is, in particular, to combat the illegal trade in pet animals.

Letter (e)

When animals kept in dwellings are presented, the test for 'significant' is being abolished. The purpose of the 'significant' test is to exclude minor cases. However, this purpose is already fulfilled in that there must be an urgent suspicion against the person responsible for providing information that the animals are not being kept in a species-appropriate or behaviour-appropriate manner. Once that threshold is reached, there is no longer any objective reason to differentiate as to whether the pain, suffering or harm is of a significant level. This is not in line with the standard of protection laid down in § 1 and § 2, which does not differentiate by whether the pain, suffering and harm is significant. Since the presentation of the animal usually takes place outside the dwelling of the person responsible for providing information, there is also no interference with Article 13 of the Basic Law, which would justify a stricter standard.

Letter (f)

In addition to the provision in the second sentence of paragraph (2), a provision is to be included in order to safeguard the constitutionally protected freedom from self-incrimination.

Since vendors do not know that they are being contacted by a public authority employee, they cannot logically exercise their right to remain silent under § 16(4), which is protected basic right. Because there is a risk that a vendor may unintentionally disclose information during the conversation, which he would probably wish to remain silent about on account of the right to freedom from self-incrimination, the third sentence contains a corresponding prohibition on using this information. However, this applies only to any criminal or regulatory proceedings (§ 17 and § 18) and not to administrative proceedings. Name and address are not yet self-incriminating.

Letter (g)

This is an editorial amendment.

Letter (h)

Double letter (aa) and double letter (bb)

The amendments add to the rights of the competent authority the right to store data in the context of its tasks.

Double letter (cc)

The power to issue ordinances pursuant to § 16(6) third sentence is being extended to include further registers. It is necessary to include in registers the prohibitions on keeping and managing animals issued by the authorities or courts and the activities subject to per-

mission under § 11(1) point 5, as there is a lack of enforcement in these areas. This is because checks under the Animal Welfare Act are usually carried out at municipal level. This means that, in some areas, animal welfare-relevant acts of one and the same person may fall under the responsibility of different public authorities.

point 1 provides an enabling basis to require uniform nationwide registration of persons and associations of persons subject to permission, which require a permit pursuant to § 11(1) point 5. These are, for example, animal welfare organisations that rehome dogs from abroad and also 'care centres' used by permit holders for this, where the animals to be rehomed are temporarily housed. This is an animal welfare-relevant activity which typically has a supra-regional dimension.

The enabling basis for the circus register, which applies unchanged, can be found in point 2.

point 3 establishes an enabling basis for a nationwide register for monitoring prohibitions on keeping and managing animals. This is used in particular for exchange between competent authorities. Both prohibitions on keeping animals issued by the authorities and the courts (cf. § 20) are to be included. In this respect, account is to be taken of the fact that the content of prohibitions on keeping or managing animals issued by the authorities under § 16a(1) second sentence point 3, and prohibitions on keeping or managing animals issued by the courts may overlap. The register also makes it possible to coordinate prohibitions on keeping and managing animals issued by the authorities and the courts, so that conflicts can be avoided.

What's important here is that the authorities are also able to exchange information across Länder and that prohibitions on keeping or managing animals issued by the authorities or by the courts cannot be circumvented by moving to the area of competence of another authority. This significantly improves enforcement and therefore the effectiveness of the measures taken by the authorities.

The provisions in the fourth sentence on the storage of data are necessary as a result of the changes in the third sentence.

Point 16

Letter a

Double letter aa

This reflects the different employment law situations in the enforcement authorities.

Double letter (bb)

This is a consequential amendment due to the creation of the new § 2b.

Re letter (b)

This is a consequential amendment due to the deletion of § 11(1) second sentence.

Point 17

Letter a

This pertains to a consequential amendment.

Regarding Letter b

On the basis of § 16g(1), the power to communicate with Member States and the European Commission can already be delegated to the BVL. Under § 16h in conjunction with § 16g(1), this possibility also exists for the transfer of the power to communicate with States which – without being a Member State – are party to the Agreement on the European Economic Area. Under Article 32(1) of the Basic Law, the maintenance of relations with foreign countries is a matter for Federal Government. By allowing the Federal Ministry to delegate to the BVL, in addition to the power to communicate with Member States, the European Commission and States which are parties to the Agreement on the European Economic Area (EEA) without being a Member State, the power to communicate with other third countries and international organisations, the aim is to enable the performance of tasks in the area of information exchange on animal welfare breaches to be centralised and practical.

Re point 18

Re § 16k

In the area of EU animal welfare legislation, many coordination and information obligations are imposed on the Member States, for example as a liaison body under Article 103 of Regulation (EU) 2017/625. To the extent necessary for the uniform implementation of legal acts of the European Community or of the European Union, it is to be possible for the BVL to be designated by the competent Federal Ministry as the competent body for the implementation of legal acts of the European Community or of the European Union within the scope of the Animal Welfare Act.

Re § 16l

Re paragraph (1)

The study 'Untersuchungen an verendeten/getöteten Schweinen in Verarbeitungsbetrieben für tierische Nebenprodukte' carried out at the University of Veterinary Medicine Hannover Foundation¹³, has shown that animal welfare-related findings have been made on animal carcasses in animal by-product processing plants, the causes of which lie in the holding from which the pigs originate. Similar findings were also found in examinations of fallen stock in Austria for pigs and cattle¹⁴. The authors of the studies conclude that the animals examined were often subjected to unnecessary pain and prolonged suffering before they died or were killed. Post-mortem examinations in sheep, goats and solipeds also reveal animal welfare-relevant findings. In order to be able to carry out more targeted animal welfare checks on holdings as a result of animal welfare-related controls in animal by-product processing plants (§ 16m) and to detect animal welfare breaches in these holdings and to better punish them under criminal or regulatory law, a marking obligation is necessary.

The marking obligation under § 16l applies to carcasses which cannot yet be traced back to the last holding on the basis of already existing obligations under the Animal By-Product Disposal Act, the Animal By-Product Disposal Ordinance or directly applicable European law. The new marking requirement is expected to concern, in particular, fallen stock from piglet production and pig fattening. Pigs that die or are killed before being marked cannot be traced back to their last holding in the holding processing animal by-products by

¹³ Prof. Dr. Elisabeth große Beilage: Untersuchungen an verendeten/getöteten Schweinen in Verarbeitungsbetrieben für tierische Nebenprodukte, Hannover 2017, DVG-Service GmbH, ISBN 978-3-86345-389-3.

¹⁴ Summary of the results of the studies in: Ass.-Prof. Dr. med. vet. Johannes Baumgartner und Hofrätin DDr. Regina Binder: Nottötung von landwirtschaftlichen Nutztieren – Vorzeitige Beendigung von Schmerzen und Leiden aus Gründen des Tierschutzes, Wiener Tierärztliche Monatsschrift 102 (2015), p. 193-199.

means of any mark. Cattle, sheep, goats and horses that have died or been killed prematurely also cannot always be traced back to their last holding, as the requirements of the animal health law do not require the animals to be marked immediately after birth. In addition, animals supplied to another holding after being marked cannot always be traced back to their last holding on the basis of the mark alone, without the aid of further information (e.g. notifications of movements from the HI-Tier system).

The paragraph also contains a legal definition of carcasses. Still-born animals are not included.

Re paragraph (2)

There is no need for marking if the traceability of carcasses to the last holding is already ensured on the basis of the existing marking requirements. Furthermore, the marking requirement is not to apply where the killing of the animals was required or ordered under animal health legislation.

Re paragraph (3)

An enabling basis for issuing an ordinance is being created. Insofar as is necessary for reasons of animal welfare for the traceability of carcasses to the holding where the animal died or was killed, it is to be possible to lay down rules on the marking of carcasses and on the manner and implementation of the marking.

Re paragraph (4)

The right to animal by-products is not restricted by the present rules, but continues to apply.

Re § 16m

Re paragraph (1)

In order to establish animal welfare breaches committed in holdings where cattle, pigs, sheep, goats or solipeds are kept, the competent authority is to be granted entry rights to animal by-product processing plants in addition to the existing powers – in particular the technical animal keeping checks. In addition, for the detection and follow-up of breaches, it is necessary that pictures (photos and videos) of carcasses in these holdings can be made and carcasses examined. These measures may be carried out at appropriate intervals and only within normal business and operating hours. Carcasses are to be examined, in particular, with regard to nutritional condition, skin changes, lesions on the musculoskeletal system and proper killing. The authority is also to be able to make duplicates and photocopies of business documents or printouts and copies of data carriers on which the business documents are stored. The personal data contained in these documents may be processed by the competent authorities for the purpose of monitoring compliance with the provisions of the Animal Welfare Act and the ordinances issued on the basis of the Animal Welfare Act in holdings where the said animals are kept for commercial purposes and to the extent necessary for the traceability of the carcasses to the holding where the animal died or was killed. For example, the personal data from route plans of the animal by-product processing plants may be collected, stored and used for the tracing of carcasses to the holding where the animals died or were killed. Duplicates, photocopies, printouts and copies containing personal data must fundamentally be destroyed or deleted when they are no longer necessary for that stated purpose, no later than three years after they have been made.

Re paragraph (2)

Paragraph (2) lays down the obligations of the operator of a facility to cooperate in and tolerate the official controls referred to in paragraph (1). The obligations arising from Regulation (EU) 2017/625 remain unaffected.

Re paragraph (3)

This provision envisages compensation for the costs incurred by animal by-product processing plants from assisting the competent authority in carrying out checks in a plant or facility. Insofar as these measures constitute an interference with the freedom of the plants concerned to pursue a trade or profession protected by Article 12(1) of the Basic Law, that interference is justified by the objective of better detecting animal welfare breaches in holdings and thus serving the animal welfare objective protected by Article 20a of the Basic Law. Compensation is provided for in order to take account of the fact that the animal by-product processing plants concerned are not related to the possible breaches of animal welfare and have no influence on them.

Re paragraph (4)

The right to animal by-products is not restricted by the present rules, but continues to apply.

Re point 19

Section Eleven (Federal Animal Welfare Officer)

Re § 16n

Re paragraph (1)

Paragraph (1) governs the creation of the post and the term of office of the Federal Animal Welfare Officer. The establishment of this post will further strengthen animal welfare in Germany, both structurally and institutionally. The appointment is made by the Federal Government and thus indirectly by the German people.

Re paragraph (2)

Paragraph (2) defines the tasks of the Federal Animal Welfare Officer. The appointed person does not carry out any public authority activities. Their task is to provide advice and support in matters concerning animal welfare across all departments. The obligation to draw up an annual activity report serves to ensure transparency and control.

Re paragraph (3)

Paragraph (3) governs cooperation with the Federal Animal Welfare Officer, taking into account § 21(1) of the Joint Rules of Procedure of the Federal Ministries.

Re point 20

This is a consequential amendment due to the addition of the new Section Eleven.

Re point 21

The aim of the amendment is to close existing legislative gaps so as to ensure more effective prosecution of crimes against animals. This is intended to take sufficient account of the animal welfare state aim enshrined in Article 20a of the Basic Law.

Letter (a)

Paragraph (1) is the same as the law currently in force.

Re b

Re paragraph 2

Paragraph (2) lays down qualification criteria. In this respect there is a higher level of severity than the basic offence, which justifies a higher penalty. The envisaged penalty of up to five years' imprisonment or a fine is moderate and fits into the overall structure of criminal law. The amendment does not specifically focus on the conditions or circumstances of science and/or research. In particular, the amendments do not alter the question of whether or not there is good reason for the killing of superfluous animals in the individual case. In the context of animal experiments, good reason for the killing of superfluous animals can be assumed, in particular, if the breeding and use of the animals have been carefully planned and the establishment has taken all reasonable measures at its disposal to avoid the emergence of superfluous animals and the further use of the animals outside the specific animal experiment, in the opinion of the responsible person, is not possible.

Re point 1

For an act to be repeated persistently, the perpetrator must breach the statutory ban or be prepared to do so time and again. Such conduct reveals the particular obstinacy of the perpetrator and his indifference to the legal system and the welfare of the animals. The aim here is to tighten penalties in view of the significant severity of the elements of the offence involved, which is already associated with the materialisation of the basic offence.

Re point 2

point 2 specifies greed for profit as a qualification criterion. Greed for profit occurs when pursuit of profit is increased to an unusual and morally offensive level. It goes beyond legitimate pursuit of profit. Merely trading on a commercial basis, seeking cost savings or tenacious practices are not sufficient. Greed for profit is a special personal characteristic within the meaning of § 28(2) of the Criminal Code (StGB), which also results in a tightening of penalties in comparable criminal provisions, e.g. in § 330 StGB. A tightening of penalties is necessary because greed for profit is usually characterised by a degree of indifference and disregard to the legal system.

Re point 3

point 3 governs cases where the perpetrator mistreats or kills a large number of vertebrates. If, within one and the same act, so many animals are mistreated or killed that the fate of one individual animal becomes insignificant, this should not only be taken into account when determining the sentence, but should already be reflected in the range of penalties laid down by law. The fulfilment of the criterion must be assessed on a case-by-case basis and cannot be expressed in absolute figures.

Re paragraph (3)

As the law stands at present, the perpetrator goes unpunished if the act does not succeed, i.e. the death of the animal or the long-lasting or recurring significant pain or suffering, with the result that the unworthiness of the act, which is also associated with an attempt, is disregarded. In order to close this gap concerning criminality, the attempt is to be criminalised. The reason for criminalising the attempt lies in the fact that the perpetrator has already begun the act, reflecting a willingness to act contrary to the law, which is to be

penalised even without the offence having been completed. These considerations can similarly be applied to § 17. Merely a direct and immediate step towards the basic offence constitutes a serious failure to comply with the requirement that humans be ethically responsible when handling an animal, and therefore a forward shift in criminal liability is justified.

Re paragraph (4)

If a perpetrator fulfils the objective criteria for the offence without wishing completion of the act, they are not to face the same criminal charge as a perpetrator acting with intent. If the offence is completed, in this case the death of the animal or the long-lasting or recurring significant pain or suffering, but this is due to a particularly high degree of negligence, it is not justified, in light of the objective associated with the animal welfare state aim of protecting animals from avoidable suffering, to prosecute the offence merely as a regulatory offence. Taking into account the principle of guilt, a lower level of penalties is foreseen. Since the criterion of brutality referred to in paragraph (1) point 2 letter (a) is a subjective criterion, reckless commission is ruled out.

Re point 22

Regarding Letter a

Regarding Double letter aa

§ 18(1) point 3 needs to be reworded and restructured. A distinction is being made here between the different fines under § 18(4) and the possibility of confiscation under § 19. Letters (a), (d) and (e) contain enabling bases for the adoption of regulatory offences with a fine of up to EUR 50 000. Letters (b) and (c) contain enabling bases for issuing ordinances laying down regulatory offences with a fine of up to EUR 10 000. Letter (d) relates to enabling bases with extension/analogy reference. For the regulatory offences laid down in ordinances on the basis of powers conferred in letter (a), (c) and (d), confiscation is also possible under § 19.

As part of the restructuring, the newly created powers for issuing ordinances have been added in § 2b(3), § 4d(6) second sentence, § 6(7), § 11(2a), § 11d(4) second sentence, § 16(6) third sentence and § 16l(3).

In addition, the existing powers in § 13b third sentence (also in conjunction with the fifth sentence) have been included in § 18(1) point 3 letter (b). The aim is to provide the possibility of imposing fines on breaches of measures adopted by ordinance pursuant to § 13b third sentence points 1 and 2.

§ 18(1) point 3 is an 'outline provision' and therefore the specific description of the offence is not provided in the Act but in the ordinance issued on the basis of § 13b. However, due to the principle laid down in Article 103(2) of the Basic Law that an act may only be punished if it was defined by law as a criminal offence before the act was committed, it must be clear to those addressed by the Act which conduct is to be penalised. For this reason, only breaches of measures under § 13b third sentence point 1 (prohibition/restriction of the free movement of cats that are capable of reproduction) and point 2 (obligation to mark and register) can be penalised in the ordinance.

The creation of a penalisation provision is proportionate, in particular necessary. The purpose of the power laid down in § 13b to issue ordinances is to limit the proliferation and spread of feral cats. Unlike wild animals, these animals of a domesticated species are not adapted to a life without human support, and therefore they often suffer significant pain, suffering or harm, for example from untreated diseases and injuries (see Bundestag docu-

ment 17/10572). Large cat populations can also pose a significant risk to birds and other prey animals.

In order to achieve the legislative purpose, cats living wild are captured, sterilised and then released again. However, the success of this measure is frustrated if domestic cats which are capable of reproduction and are living wild perpetuate the chain of reproduction. A representative survey carried out by Deutsche Tierschutzbund e.V. concluded that one in ten cats kept in Germany was not neutered and was therefore capable of reproduction (cf. 'Der große Katzenschutzreport' (2023), p. 33). Furthermore, the work of the authority is made more difficult if the cats found are not marked and registered because it is not immediately possible to determine whether the cat has a keeper. Consequently, in certain cases it may be necessary to take measures addressed to the keepers of domestic cats. The third sentence of paragraph (13b) mentions as possible measures the restriction of free movement and an obligation to mark and register.

Experience gained from the practice of the Länder and municipalities has shown that not all keepers of cats capable of reproduction are willing to comply with these measures, especially if this entails costs or other disadvantages for them. Under the law as it stands, compliance with the measures can only be enforced by means of administrative enforcement. As a general rule, a penalty payment is ordered and imposed. However, the fact that repeated breaches have been identified despite such orders shows that these administrative means do not have the necessary deterrent and enforcement effect. Therefore, in order to achieve the objective of power to issue ordinances under § 13b, it is necessary to provide a basis for imposing penalties for certain (sufficiently identifiable) cases. The possibility of imposing a fine means that illegal conduct on the part of the keepers can be penalised both more quickly and effectively, with the result that the conduct is either completely absent because of the deterrent effect of the possibility of being imposed with a penalty, or at least is not repeated. At the same time, the level of seriousness of the conduct is also emphasised. Less severe measures have not proved to be as effective.

Another reason for the need for a fine can be explained by the fact that the number of cats kept in Germany increased from 11.5 million in 2013 to 15.2 million in 2022 (cf. 'Der große Katzenschutzreport' by the Deutscher Tierschutzbund (2023), p. 32 with further references). As a result, the number of cats that can potentially escape, be released or continue to reproduce has increased. The Länder and municipalities concerned are therefore more reliant on keepers' compliance with the measures adopted in order to reduce significant pain, suffering and harm to feral cats.

Double letter (bb)

The new provision in § 18(1) point 3a establishes a regulatory offence for breaches of the prohibition on tethered keeping of animals laid down in the first sentence of § 2b(1).

Double letter (cc)

This is a consequential amendment due to the addition of § 4(4), according to which the provision also applies to cephalopods and decapods.

Double letter (dd)

§ 18(1) point 6b establishes a regulatory offence for breaches of the obligation on slaughterhouses to make recordings of certain animal welfare-related operations in the holding and to make the recordings available to the competent authority. The provision penalises failure to provide such recordings or failure to do so in full or properly; the reason for this is that, in the past, recordings have been absent, have not been made in full or are not suitable for the intended purpose. The premature deletion of recordings may also lead to failure to provide.

Double letter (ee)

This is a consequential amendment due to the deletion of § 11(1) second sentence.

Double letter (ff)

§ 18(1) point 20 makes it possible to penalise the keeping or putting on display of elephants, hippopotamuses, giraffes, bears, big cats, rhinos, primates and seals in changing locations as a regulatory offence.

Double letter (gg)

The new provision in § 18(1) point 21 establishes a provision on fines for keeping pigs with docked tails contrary to the requirements of the first sentence of § 11(9).

Double letter (hh)

Re point 22a

§ 18(1) point 2a makes it possible to penalise the use of animals with cruel breeding characteristics for breeding contrary to § 11b(1b).

Re point 22b

§ 18(1) point 22b penalises the putting on display of and advertising with animals which have been bred or modified in contravention of the ban on cruel breeding and animals that have cruel breeding characteristics.

Double letter (ii)

§ 18(1) point 23 is being brought in line with the changes in § 11c. In addition to the supply of vertebrates to children and adolescents, the supply of cephalopods and decapods to children and adolescents is also penalised. Also penalised is the supply of live cephalopods and decapods to the final consumer for use as food.

Double letter (jj)

Re point 22

§ 18(1) point 24 makes it possible to penalise vendors of live vertebrates on online platforms who fail to provide to the operator of the online platform the data to be provided pursuant to the first sentence of § 11b(1), fail to do so in full or properly.

Re point 24a

§ 18(1) point 24 establishes a regulatory offence for breaches by operators of online platforms of the obligation to provide prompt and complete information on vendors of live vertebrates. The transmission of incorrect data by the operator to the authority does not constitute a regulatory offence, since the operator is not required to check the content of the vendor's data.

Re point 24b

In addition, § 18(1) point 24a establishes a regulatory offence for breaches of the ban on offering vertebrates with cruel breeding characteristics and vertebrates with docked tails in breach of animal welfare legislation on online platforms.

Double letter (kk)

§ 18(1) point 25a is added as a result of the creation of a new notification obligation in § 16(1b).

Double letter (ll)

This is an editorial amendment.

Double letter (mm)

A corresponding regulatory offence is being established for the effective enforcement of the newly created § 16l. This allows penalisation if the prescribed marking of carcasses is not carried out.

Re letter (b)

Paragraph (3) is being reworded for consistency reasons. A distinction is being made here between the different fines and the possibility of confiscation under § 19.

Re letter (c)

The scope of the fines provided for in § 18 has not been increased since 1998 and, compared with other provisions on fines, no longer sufficiently reflects the severity of the offence committed. An increase to EUR 10 000 or EUR 50 000 is therefore appropriate for general preventative reasons.

In addition, the new points 3a, 20, 21, 22a and 22b of § 18(1) are to be allocated to the increased fines, as these breaches have a direct impact on animal welfare.

Re point 23

This is a consequential amendment due to the changes in § 18(3).

Re point 24

The addition of the references in the first sentence of § 19 to include § 18(1) point 10a expressly allows the confiscation of animals kept in breach of § 6(4a) as the subject of the regulatory offence. This is also a consequential amendment due to the changes in § 18(3).

By adding § 19 second sentence, in addition to animals, goods, such as means of transport, can also be confiscated by the authorities. This is done on the basis of § 74a StGB and § 23 of the Act on Regulatory Offences (OWiG).

When the competent authorities carry out roadside checks for illegal transport of dogs/cats, it is generally not possible to confiscate the transport vehicle used. However, such transport vehicles may be objects used to commit or prepare for a criminal or regulatory offence under this Act.

Re point 25

This is a consequential amendment due to the addition of the new Section Eleven.

Subparagraph 26

Letter a

Re paragraph (1)

This provision ensures that existing ordinances issued on the basis of § 2a(1) point 1 or 2 apply until new ordinances are issued and therefore a legislative gap is avoided and animal keeping which corresponds to the current legal situation can be continued until new legislation is adopted by the legislator. This concerns, in particular, the rules currently in force in the Dog Welfare Ordinance and on tethered keeping of calves in the Farm Animal Welfare Ordinance.

Paragraph (1a)

The (seasonal) tethered keeping of cattle over six months of age is still a common practice in Germany. At the same time, in light of § 2, permanent tethered keeping must be assessed critically from the point of view of animal welfare and should therefore no longer be practised in the future, as the animals are significantly restricted in their behaviour that is appropriate to the species during the period of tethering. This concerns in particular comfort, movement and social behaviour. Engagement in these behaviours is only possible during unrestricted movement. The Scientific Committee on Animal Health and Animal Welfare (SCAHAW) concluded in its 2001 and 2012 reports on the welfare of cattle for fattening that tethered keeping increases the risk of health problems and restricts the species-appropriate behaviour and socialisation of the animals.

However, conversion to other types of farming often requires structural changes in holdings which currently still practise tethered keeping.

The transitional provision in the first sentence therefore still permits, for the period of ten years after the entry into force of the amending Act, the tethered keeping of cattle over six months of age by way of derogation from § 2b(1), provided that the holding also complies with the requirements of § 2 in conjunction with an ordinance issued on the basis of § 2a(1) point 1 or 2. This period is necessary to allow animal-keeping holdings currently still practising tethered keeping to be able to switch to other types of farming.

At the end of this ten-year transitional period, the provision laid down in the second sentence is intended to ensure that existing holdings can continue to operate provided that the specified requirements are met. The provision in the second sentence enables small holdings with up to 50 cattle over six months of age to be kept tethered if they have access to pasture during the grazing season and have access to areas in the open air at least twice a week during the grazing season. Grazing provides cattle with particularly animal-friendly conditions. The requirements are based on the European legal framework for organic farming in force at the time of entry into force of this Act (third sentence of point 1.7.5 of Part II of Annex II to Regulation (EU) 2018/848 of the European Parliament and of the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation (EC) No 834/2007 (OJ L 150, 14.6.2018, p. 1)).

Paragraph (1b)

When carrying out falconry, the tethered keeping of birds of prey, e.g. in the form of wired flight systems, is common practice. The provision in paragraph (1b) ensures that, until an ordinance is issued on the basis of § 2b(2) or (3), this practice can continue, provided that the requirements set out in paragraph (1b) are met and therefore animal welfare considerations are sufficiently taken into account. The birds of prey must continue to be adequately able to fly, even though they are tethered. This can be ensured by a sufficiently long flight wire. In addition, the restriction on the ability to move must fundamentally be

compensated by regular unrestricted flight. Finally, the bird of prey concerned must also be suitable for the tethered keeping in the individual case, so that no pain, harm or significant suffering is caused.

Re paragraph (2)

§ 21(2) contains a transitional provision for the extension of the requirement to provide proof of competence for stunning and killing fish, provided that this is not carried out on board fishing vessels. Sufficient time must be given to allow the authorities, inter alia, to provide training sessions and create training materials and to enable those who stun and kill fish to obtain proof of competence. The transitional period is therefore three years from the entry into force of the Act. During this period, fish may continue to be stunned and killed under the supervision of a person with proof of competence.

Re paragraph (3)

§ 21(3) contains a transitional provision for the corresponding application of the requirements for stunning and killing of vertebrates to cephalopods and decapods. Those who kill cephalopods and decapods on a professional or commercial basis will have to provide proof of competence, which means that sufficient time should be allowed to set up and attend training courses. The transitional period is therefore three years from the entry into force of the Act.

Paragraph (3a)

§ 21(3a) contains a transitional provision concerning the obligation to make recordings of animal welfare-relevant operations at the slaughterhouse, which in future must be ensured by the operators of slaughterhouses in accordance with § 4d (new). It can be assumed that the introduction of video surveillance and the storage and making available of recordings for the official controls of the competent authorities will create additional costs for the slaughterhouses concerned. Therefore, an appropriate transitional period of one year from the entry into force of this Act shall apply to the implementation of the obligation to make recordings of operations that are relevant to animal welfare for existing slaughterhouses.

Paragraph (3b)

§ 21(3b) contains a transitional provision concerning the prohibition on dehorning or preventing horn growth, without anaesthesia, in calves under six weeks of age, which will in future exist as a result of the deletion of the exception in § 5(3) point 2. It can be assumed that affected holdings will have to implement appropriate measures to ensure the use of anaesthetics and painkillers, which involve additional costs. Animal keepers are therefore granted a reasonable period of one year from the entry into force of this Act during which they can adapt to the new legal situation and prepare for it. During this transitional period, however, all possibilities must be exhausted to reduce the pain or suffering of animals, in particular pain-relieving veterinary medicinal products are to be used.

Paragraph (3c)

§ 21(3c) contains a transitional provision concerning the prohibition on the castration, without anaesthetic, of male cattle under four weeks of age, which will in future exist as a result of the amendment to § 5(3) point 1. It can be assumed that affected holdings will have to implement appropriate measures to ensure the use of local anaesthetic, which involves additional costs. Animal keepers are therefore granted a reasonable period of three years from the entry into force of this Act in order to prepare themselves for the new legal situation. During this transitional period, however, all possibilities must also be exhausted to reduce the pain or suffering of animals.

Paragraph (3d)

§ 21(3d) contains a transitional provision concerning the prohibition on tail docking in lambs, which will in future exist as a result of the deletion of the exception in § 5(3) point 4. It can be assumed that affected holdings will have to implement appropriate measures to ensure appropriate slaughter, breeding and shearing hygiene, which involve additional costs. Therefore, an appropriate transitional period of eight years from the entry into force of this Act shall apply to the implementation of the ban for existing holdings.

Paragraph (3e)

§ 21(3e) contains a transitional provision concerning the requirement that the keeper of a piglet must, at the time of tail docking in accordance with § 6(1) second sentence point 2d, have the declarations necessary in accordance with letter (c) of that point. The new rules lead to changes in the interaction between the operators involved in pig fattening. Those involved need to be given sufficient time to adapt to the new requirements. During the transitional period, the intervention may be carried out only if, in the individual case, it is essential for the subsequent use of the animal with regard to its welfare and the keeper can credibly demonstrate this to the competent authority upon request. The transitional period shall be one year from the date of promulgation of this Act.

Paragraph (3f)

§ 21(3f) contains a transitional provision concerning the prohibition on the tail docking of male cattle under three months of age using elastic rings, even if this is essential for the intended use, which will in future result from the deletion of the exception in § 6(3) first sentence point 3. It can be assumed that affected holdings will have to take appropriate measures to address the risk of tail injury. Therefore, an appropriate transitional period of three years from the entry into force of this Act shall apply to the implementation of the ban for existing holdings.

Re letter (b)

This is a consequential amendment due to the deletion of the second sentence of § 11(1).

Re letter (c)

The introduction of an obligation for vendors to provide information is intended to enable the competent authorities to carry out checks on animal fairs at which commercial breeders, keepers or traders offer animals for sale. The provision accompanies the new § 16(1) eighth sentence and is intended to enter into force on a transitional basis until an ordinance pursuant to § 11(2) first sentence point 1 replaces it.

At animal fairs, animals can be offered, sold and exchanged between private individuals, as well as by commercial breeders and traders. The species on offer can be numerous and the crowds can be large. As part of a study initiated and supported by the Federal Ministry of Food and Agriculture 'Haltung exotischer Tiere und Wildtiere in Privathand: Situationsanalyse, Bewertung und Handlungsbedarf insbesondere unter Tierschutzaspekten (Exopet)', representative data on the private keeping of exotic and wild animals in Germany was collected and the keeping was comprehensively examined and evaluated, in particular from the point of view of animal welfare. The results of these studies revealed the need for action in certain aspects of the keeping and trade in these animals. With regard to the organisation of animal fairs and markets, it was found that there are frequent animal welfare-related shortcomings where non-compliance with applicable legal requirements exists. Animal fairs and markets where there are commercial suppliers are affected in particular.

Letter (d)

Paragraph (6b)

§ 21(6b) stipulates that it is still possible to keep or put on display animals which, at the time of entry into force of this Act, are already kept or put on display in changing locations. The purpose of the provision is to safeguard the principle of proportionality, given the encroachment on the fundamental rights of animal keepers, taking into account the interests of animal welfare.

Re paragraph (6c)

Paragraph (6c) stipulates that § 11(9) first sentence point 2 does not apply to animals which are already kept on the date of entry into force of this amending Act.

Re paragraph (6d)

The ability of the breeder to carry out back breeding for the purpose of eliminating existing modifications or disorders is limited to 15 years because experience shows that, in back-breeding processes, generations with, at least individual, animals that have cruel breeding defects or disorders associated with pain, suffering or harm will still exist. As § 11(2) point 3 is linked to § 11(1c), this part of the provision shall also no longer apply after 15 years.

Re paragraph (6e)

§ 21(6d) contains a transitional provision concerning the prohibition on the supply of live cephalopods and decapods to final consumers for use as food, which will be laid down in future by § 11c(2). It can be assumed that affected holdings will have to implement appropriate measures to ensure that cephalopods and decapods are stunned and killed in a way that is compatible with animal welfare, before being supplied to final consumers, which involves additional costs. The holdings concerned are therefore granted a reasonable period of one year from the entry into force of this Act to implement the ban on the supply of live cephalopods and decapods.

Re Article 2 (Amendment to the Animal Products Trade Prohibition Act)

The current legislation prohibiting the supply of heavily pregnant mammals for slaughter in § 4 of the Animal Products Trade Prohibition Act excludes sheep and goats on the grounds that the animal keeping methods and other framework conditions are fundamentally different from those applicable to the keeping of other farm animal species (e.g. cattle and pigs). In addition, the state of knowledge when this legislation was drafted was not sufficient to allow valid conclusions to be drawn on the implementation and practicability of various methods for pregnancy testing in sheep and goats under extensive farming conditions and in terms of the feasibility of management measures to prevent the slaughter of heavily pregnant animals.

There is now sufficient scientific and practical knowledge to justify the inclusion of sheep and goats within the scope of the provisions of § 4. For example, representative data on the implementation and practicability of various methods of pregnancy testing in sheep and goats under extensive farming conditions could be collected as part of a study initiated and supported by the Federal Ministry of Food and Agriculture. At the same time, the feasibility of management measures to prevent the slaughter of heavily pregnant sheep and goats has also been fully investigated and assessed. As a result of the project, it can be concluded that the use of mobile ultrasound devices is a reliable and practicable method for determining pregnancy in sheep and goats, the use of which is also suitable under extensive farming conditions. In addition, it was found that specific management measures (e.g. documentation of the mating season and lambing season, short mating

seasons, weaned young animals separated by sex, adequate training of animal keepers) can ensure that no pregnant sheep or goats are supplied for slaughter.

Re Article 3 (Permission to publish)

Due to the large number of amendments, the wording of the Animal Welfare Act is to be republished.

Re Article 4 (Entry into force)

The Act is to enter into force on the first day of the third quarter following its promulgation, in order to give the authorities, animal keepers and other parties affected a reasonable period of preparation for the implementation of the measures required by the new or amended provisions.