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Fur Farming (Prohibition) (Scotland) Bill

The introduction in the Scottish Parliament of the Fur Farming (Prohibition) (Scotland) Bill on 5 October 2001 followed the establishment of a ban on fur farming in England and Wales in November 2000 (due to come into force no earlier than 1st January 2003). There are currently no known fur farms in Scotland. The Bill's main objective is therefore to prevent fur farmers from England and Wales relocating to Scotland by prohibiting the establishment of fur farms north of the border. The Bill is based on an objection on the grounds of "public morality" to the breeding and keeping of animals solely or primarily for the value of their fur requiring their slaughter.

This paper offers:

- some background to the fur farming legislation in the UK and in other EU Member States;
- a summary of the Bill's provisions;
- some views on fur farming (taken from the Scottish Executive consultation on the Bill, animal welfare organisations and fur trade associations).

THE FUR FARMING (PROHIBITION) (SCOTLAND) BILL

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TABLE OF CONTENTS

FARMING IN EUROPE.....	4
Context.....	4
Fur farming and the European Commission.....	4
Council Directive 98/58/EC concerning the protection of animals kept for farming purposes.....	5
Fur farming in the Council of Europe.....	5
Position in other EU Member States	6
Austria.....	6
The Netherlands.....	6
FUR FARMING IN ENGLAND AND WALES.....	8
Private Member's Bill	8
Election pledge and Queen Speech	8
The Fur Farming (Prohibition) Act 2000.....	8
FUR FARMING IN SCOTLAND	10
Existing Legislation and rationale	10
The Welfare of Farmed Animals (Scotland) Regulations 2000.....	10
The Protection of Animals Bill.....	11
PROVISIONS OF THE BILL.....	12
Objectives of the Bill	12
The Bill's clauses	13
1 – Offences relating to fur farming	13
2 – Forfeiture orders	13
3 – Enforcement of forfeiture orders	13
4 – Powers of entry and enforcement	13
5 – Compensation for affected businesses.....	13
6 – Commencement and short title	13
VIEWS ON FUR FARMING	14
Consultation on the Fur Farming Bill	14
The Fur Trade associations.....	15
Animal welfare groups	15
Public opinion	16

FARMING IN EUROPE

CONTEXT

“Fur farming usually involves the raising of either mink or fox for their skins. The use of animal skins for clothing has been human practice for thousands of years but now there is a growing concern that the raising of animals merely to utilise their skin for luxury goods is wrong.”¹ Although mink and fox are the main species of animals farmed for their fur, nutria, chinchilla, fitch, sable and racoon dog are also bred but on a smaller scale.

Fur farming started at the end of the 19th century in America and spread to Europe at the beginning of 20th century. In the late 1990s, fur farms were found in almost every European Union Member State. 70% of the world's farmed fur is produced in Europe, the world's biggest mink producer being Denmark.

The European Fur Breeders' Association (EFBA) reports on the existence of 8,000 fur farms in its 16 member states. These farms are responsible for an average annual production of 19 million mink and 2.8 million fox skins at a total value of 625 million Euro. The European fur farming industry employs around 30,000 people. European fur farming is concentrated in Denmark, Finland and the Netherlands.²

Although the fur farming industry has been in steep decline since the 1970s and early 1980s, the wearing of fur started regaining acceptability in the 1990s. Further information on the fur farming industry (including markets) can be found in the House of Commons Library Research Paper on the Fur Farming (Prohibition) Bill.³

FUR FARMING AND THE EUROPEAN COMMISSION

The European Commission has been reported to have said that member states have the authority to ban the farming of animals for their fur.⁴ The EC has also requested a scientific opinion on the welfare aspects of fur farming from its independent advisory body, the Scientific Committee on Animal Health and Animal Welfare (SCAHAW). SCAHAW is expected to publish its findings in the first quarter of 2002. The outcome of this report may or may not lead to the EC proposing a new directive on fur farming.⁵

¹ HoC Library Research Paper 00/4 on The Fur Farming (Prohibition) Bill
<http://www.parliament.uk/commons/lib/research/rp2000/rp00-004.pdf>

² From EFBA pages at: <http://www.efbanet.com/economics.htm>

³ Available at: <http://www.parliament.uk/commons/lib/research/rp2000/rp00-004.pdf>

⁴ Respect for Animals Press Release, 29th January 2001: “Delight as ban on mink farming announced in Netherlands” <http://www.respectforanimals.org/respect.html>

⁵ From personal correspondence

Council Directive 98/58/EC concerning the protection of animals kept for farming purposes

The above Directive lays down general provisions and minimum standards for the protection of animals of all species bred or kept for the production of food, wool, skin or fur or for other farming purposes. It also calls for the uniform application of the *European convention for the protection of animals kept for farming purposes* (see below) and any recommendations made under the Convention.

Article 3 of the Directive reads:

“Member States shall make provision to ensure that the owners or keepers take all reasonable steps to ensure the welfare of animals under their care and to ensure that those animals are not caused any unnecessary pain, suffering or injury.”⁶

The rules set by the Directive reflect the so-called 'Five Freedoms' as adopted by the UK Farm Animal Welfare Council (an independent advisory body established by the UK Government in 1979):

- freedom from hunger and thirst - access to fresh water and a diet for full health and vigour;
- freedom from discomfort - an appropriate environment with shelter and comfortable rest area;
- freedom from pain, injury and disease - prevention or rapid treatment;
- freedom to express normal behaviour - adequate space and facilities, company of the animal's own kind;
- freedom from fear and distress - conditions and treatment which avoid mental sufferings.

FUR FARMING IN THE COUNCIL OF EUROPE

The Farm Animal Welfare Council condemned fur farming and refused to issue guidelines for the welfare of animals kept for such a purpose.⁷ This position contrasts with the *Council of Europe Convention for the Protection of Animals kept for Farming Purposes*,⁸ which does make reference to animals farmed for their fur:

Article 1 of the Convention reads:

⁶ Directive 98/58/EC is at: http://www.europa.eu.int/eur-lex/en/lif/dat/1998/en_398L0058.html

⁷ Farm Animal Welfare Council Press Notice, *Farm Animal Welfare Council disapproves of mink and fox farming*, 4 April 1989. <http://www.fawc.org.uk>

⁸ <http://conventions.coe.int/Treaty/EN/cadreprincipal.htm> ETS no. : 087

“This Convention shall apply to the keeping, care and housing of animals, and in particular to animals in modern intensive stock-farming systems. For the purposes of this Convention animals shall mean animals bred or kept for the production of food, wool, skin or fur or for other farming purposes, and modern intensive stock-farming systems shall mean systems which predominantly employ technical installations operated principally by means of automatic processes.”

The Convention provides a framework of provisions governing general farm animal welfare. Specific welfare rules for supervision, housing, management, breeding and slaughter are enshrined in Recommendations based on scientific evidence.

In 1997, the Council of Europe passed guidelines relating to the above Convention, which set international standards for the keeping of fur bearing animals. In June 1999, it adopted the revised recommendation on farmed fur animals; this may be used as a standard for future EU legislation on farm welfare.

POSITION IN OTHER EU MEMBER STATES

Austria

Austria was the first EU Member State to ban fur farming. Austria is made up of nine regions, each of which decided to ban fur farming during the 1990s. In May 1998, the Lower Austrian Government was the final regional government to introduce a ban on fur farming and in June 1998, the only remaining mink farm in Austria closed down.

The Netherlands

Fox and chinchilla farming have been banned in the Netherlands since 1995 and 1997 respectively (both bans have come with a phase out period extending to 01 April 2008).

Regarding mink farming, the Netherlands have notified the European Commission of their proposal to “ban the keeping and killing of animals with the exclusive or main aim of acquiring the fur. The Dutch government is of the opinion that the acquisition of fur from furred animals constitutes insufficient justification for keeping and killing these animals.”⁹ The Bill, which provides a transitional period of 10 years for existing holdings, will have to pass through two houses of the Dutch Parliament before becoming law. The Cabinet of Ministers is expected to introduce the bill into parliament in the very near future. This would put an end to what currently represents 10% of the world market of mink fur.

⁹ The full text of Dutch draft proposal can be viewed at:
<http://europa.eu.int/comm/enterprise/tris/webdata/200164EN.doc>

The proposed Dutch ban is mainly based on ethical arguments. This was both welcome by the animal welfare organisation Respect for Animals¹⁰ and very much criticised by France, Spain, Finland and Greece. It has been reported that these four Member States have made a formal protest about it to the European Commission.¹¹

¹⁰ Press release of 29th January 2001: 'Delight as ban on mink farming announced in Netherlands'
<http://www.respectforanimals.org/respect.html>

¹¹ Dutch Fur Breeders Association Press Release, MAY 16, 2001
<http://www.furcommission.com/news/newsF02y.htm>

FUR FARMING IN ENGLAND AND WALES

PRIVATE MEMBER'S BILL

Maria Eagle, Labour MP, introduced a private member's bill to end fur farming in 1999. Despite receiving cross-party support, this was blocked by Conservative MPs and ran out of parliamentary time in May 1999. Maria Eagle's Bill had aimed to end the "cruel exploitation of essentially wild animals" by closing down fur farms by 2002 and compensating farmers for their loss.

The second reading of the Bill took place on 5 March 1999. Maria Eagle presented the reasons for which she believed her Bill was necessary:

*"Fur farming is the intensive breeding of essentially wild animals, mink in this country and other animals elsewhere, although until recently fox, too, was farmed in this country. Because the animals have to be kept and bred intensively, they are kept in relatively small cages and are unable to exhibit their natural behaviour. They live relatively short lives in some distress prior to being slaughtered for their fur."*¹²

ELECTION PLEDGE AND QUEEN SPEECH

In July 1998, the junior Agriculture Minister Elliot Morley announced that the Government would propose to ban fur farming in the UK. Fulfilling its pre-election pledge, the UK Government introduced a bill to prohibit fur farming in November 1999. This came after an announcement made in the Queen's Speech, which stated that this bill would prohibit the keeping of animals solely or primarily for slaughter for the value of their fur.

THE FUR FARMING (PROHIBITION) ACT 2000

The Fur Farming (Prohibition) Act 2000 received Royal Assent on 30 November 2000. The Act:

- prohibits in England and Wales the keeping of animals solely or primarily for slaughter for the value of their fur;
- provides a winding-down period at least until the end of 2002 before the ban comes into force;
- requires MAFF Ministers to make a compensation scheme for fur farmers in England put out of business by the ban and to consult the industry on this scheme;
- provides for compensation to be paid for loss of income and for loss of other assets;
- provides for disputes over compensation to be settled by arbitration or the Lands Tribunal;

¹² HoC Debate 5 March 1999 cc 1331-2

- imposes a maximum fine of £20,000 for the illegal keeping of animals for their fur.

The Government introduced the ban on fur farming on the grounds that the practice offends 'public morality'.

Mr Yeo: *To ask the Minister of Agriculture, Fisheries and Food what definition he uses of public morality in his policy on banning fur farming in this country.*

Mr Nick Brown (June 2000): *"Public morality" is not susceptible to an absolute definition: it inevitably involves subjective judgement. The expression is relevant to consideration of the proposed ban under Community law. The European Court of Justice has held that in principle it is for each member state to determine in accordance with its own scale of values the requirements of public morality in its territory.*

In the Government's view, fur farming is not consistent with a proper value and respect for animal life. Animal life should not be destroyed in the absence of sufficient justification in terms of public benefit. The Government believes that the rearing of animals solely or primarily for slaughter for their fur fails this test. The position of fur farming is quite distinct from that of food production. Where the primary purpose of keeping an animal is the production of food, that purpose provides a sufficient public benefit to justify breeding the animals for slaughter. This is so even where the production of fur or hide is a secondary purpose of keeping the animal.

*For the reasons set out, the Government believes that a total ban on fur farming is justified.*¹³

Following the introduction in England and Wales of the Fur Farming (Prohibition) Act in November 2000, the number of fur farms in the UK has gone down from 13 (in 1999) to 4 (August 2001). All 13 farms were in England and all farmed mink.

¹³ HoC Written Answers for 22 June 2000. Question no. 126862, Column 301W <http://www.parliament.the-stationery-office.co.uk/pa/cm199900/cmhansrd/vo000622/text/00622w17.htm#00622w17.html> sbhd4

FUR FARMING IN SCOTLAND

EXISTING LEGISLATION AND RATIONALE

The last known fur farm in Scotland closed in 1993.

The keeping of mink in Scotland currently requires a licence from the Scottish Executive Environment and Rural Affairs Department (SEERAD) by virtue of the Mink Keeping (Scotland) Order 2000¹⁴ made under the Destructive Imported Animals Act 1932. The farming of other species not covered by the 1932 Act (eg Arctic fox) does not presently require a licence. Under the 1932 Act, the keeping of destructive non-indigenous mammals may, by order, be prohibited. However, the Scottish Executive argues that the 1932 Act does not provide an adequate basis for the introduction of the proposed ban on fur farming for the following reasons:¹⁵

- The purpose of the Order making power of the 1932 Act is to control the destructive effects of certain non-indigenous mammals on the environment.
- The 1932 Act does not extend to all animals that might be farmed for their fur (eg the Arctic fox).

In light of the above and considering that the proposed ban is based on a “moral objection” and not aimed at environmental protection, the Scottish Executive has decided that new primary legislation is required.

The Welfare of Farmed Animals (Scotland) Regulations 2000

The above Regulations implement the European Council Directive 98/58/EC concerning the protection of animals kept for farming purposes¹⁶. The Regulations (and the Community legislation that they implement) reflect the obligations contained in the 1976 European Convention for the Protection of Animals kept for Farming Purposes (amended in 1992). The Regulations apply to all animals kept for farming purposes (subject to certain limited exceptions). Regulation 3(1) lays down the general principle that owners and keepers of animals kept for farming purposes must all take reasonable steps to ensure the welfare of animals in their care and to protect them from any unnecessary pain, suffering or injury. This principle applies to all animals (including fish, reptiles and amphibians).

In November 2000, Rhona Brankin explained¹⁷:

¹⁴ See www.scotland-legislation.hms.gov.uk/legislation/scotland/ssi2000/20000400.htm

¹⁵ See policy memorandum at: http://www.scottish.parliament.uk/parl_bus/bills/b39s1pm.pdf

¹⁶ See page 5 of this paper and http://www.europa.eu.int/eur-lex/en/lif/dat/1998/en_398L0058.html

¹⁷ Rural Affairs Committee meeting 28/11/00 http://www.scottish.parliament.uk/official_report/cttee/rural-00/ra00-3302.htm

“When the UK held the presidency of the Council of the European Union in 1998, we introduced some important measures, one of which was directive 98/58/EC, covering the protection of animals kept for farming purposes. It is commonly known as the general farm animal welfare directive. An adoption of that measure was rightly acknowledged to be an important step forward in welfare terms because, for the first time, common standards now apply throughout the European Union. That was important not only for the resultant welfare of farm animals but for countries such as ours, which have traditionally had a high standard of farm animal welfare and have had to compete commercially with other countries where welfare standards have, in some cases, been much lower. The [Welfare of Farmed Animals (Scotland)] Regulations (...) implement the general directive into Scottish law. They also revoke and consolidate existing legislation in this field.”

The Protection of Animals Bill

In September 2000, the Scottish Executive announced the introduction of the Protection of Animals Bill in its legislative programme for 2001-02. This Bill's purpose will be “to provide a means for removing neglected animals to a place of safety, and to provide for costs incurred to be offset by the sale or disposal of the animals. The Bill will also give local authority Inspectors powers of entry where there is a suspicion of suffering or distress being caused to animals.”¹⁸

¹⁸ Scottish Executive Legislative Programme 2001-02

PROVISIONS OF THE BILL

OBJECTIVES OF THE BILL

Following the introduction of the Fur Farming (Prohibition) Bill in the House of Commons¹⁹, the Scottish Minister for Rural Development announced, in December 1999, that the Scottish Executive would also introduce a bill on this subject²⁰. The Minister also responded to a PQ by Scott Barrie MSP as follows:

S1W-2931 - Scott Barrie (Dunfermline West) (Lab): *To ask the Scottish Executive whether it proposes to introduce legislation to prohibit fur farming in Scotland.*

Answered by Ross Finnie (16 December 1999): *A Bill to prohibit fur farming in England and Wales was published on 23 November. There are currently no fur farms in Scotland. Nevertheless, I propose to bring forward a Bill in the Scottish Parliament to prevent any existing fur farming businesses in England and Wales relocating to Scotland, and to prevent any such business being established in Scotland in any other circumstances. Details of the Bill will be published in due course.*

The proposed Bill was introduced in the Scottish Parliament on 5 October 2001. Its main objective is to prohibit the establishment of fur farms in Scotland and thus to prevent fur farmers from England and Wales relocating to Scotland. If enacted, the Bill²¹ would:

- prohibit the keeping of animals solely or primarily for slaughter for the value of their fur or for breeding progeny for such slaughter;
- enable the creation of a compensation scheme;
- provide for the making of a forfeiture order following a conviction.

There are currently no licensed fur farms in Scotland.

The Bill is based on the moral objection to the breeding and keeping of animals solely or primarily for the value of their fur requiring their slaughter. It does not cover sheepskin and leather, as these are by-products of the meat industry. The Bill does not prohibit the sale or import of fur or fur products, nor does it forbid the production of fur or wool that can be clipped or shorn without slaughter being necessary.

As stated in a press release in December 2000²², no claims for compensation as a result of the new ban will be considered for businesses that applied for a licence after 19 December 2000. However, in order to be compliant with the European

¹⁹ See House of Commons Library Research Paper: www.parliament.uk/commons/lib/research/rp2000/rp00-004.pdf

²⁰ See Scottish Executive news release at: <http://www.scotland.gov.uk/news/1999/12/se1568.asp>

²¹ The Bill can be found at: http://www.scottish.parliament.uk/parl_bus/bills/b39s1.pdf

²² See www.scotland.gov.uk/news/2000/12/se3264.asp

Convention on Human Rights, provision for compensation has been accommodated within the legislation (see below).

THE BILL'S CLAUSES

The Bill's explanatory notes²³ clearly summarise what the Bill does. The following paragraphs present an extract of the explanation given for each clause.

1 – Offences relating to fur farming

"Section 1 creates the offence of keeping animals solely or primarily for slaughter for the value of their fur or for breeding progeny for such slaughter." This section also makes an offence the keeping or breeding of animals with the intention of selling them on for slaughter. It establishes a maximum penalty of £20,000 for offences.

2 – Forfeiture orders

"Section 2 allows the court to make a forfeiture order in respect of any animals, following conviction under section 1... [It] explains that a forfeiture order is an order for the destruction or other disposal of the animals to which the order applies. Its effects is to deprive any person of their rights in those animals."

3 – Enforcement of forfeiture orders

"Section 3 gives the court certain powers in relation to the enforcement of a forfeiture order."

4 – Powers of entry and enforcement

"Section 4 enables persons authorised in writing by the Scottish Ministers [or appointed by the court] to enter and inspect premises where it is suspected that an offence under section 1 has been or is being committed."

5 – Compensation for affected businesses

"Section 5 enables the Scottish Ministers to establish ... a scheme for paying compensation to fur farmers who incur specified losses as a result of the prohibition of fur farming ... As there are no known fur farms in Scotland, the Bill *enables* rather than *requires* the making of a compensation scheme." Such compensation may be contemplated for fur farms that were in operation in Scotland prior to 19 December 2000 and that, by not being subject to a SEERAD licence, may not have been identified at this stage. This section allows for access to appeal to an independent body over any dispute on compensation.

6 – Commencement and short title

"Section 6 provides that the foregoing provisions will come into force on a day to be appointed by an order made by the Scottish Ministers."

²³ Bill's explanatory notes: http://www.scottish.parliament.uk/parl_bus/bills/b39s1en.pdf

VIEWS ON FUR FARMING

CONSULTATION ON THE FUR FARMING BILL

The Scottish Executive undertook a three-month public consultation exercise on its proposed Fur Farming Bill during spring 2000²⁴. The consultation letter was sent to 86 organisations and posted on the Scottish Executive website. It invited comments on the following proposals:

1. to prohibit the establishment of any new mink fur farms;
2. to prohibit the keeping of all animals with a view to their slaughter solely or primarily for the value of their fur;
3. to prohibit the keeping for fur of Arctic fox (*Alopex lagopus*), racoon dog (*Nyctereutes procyonoides*), sable (*Martes zibellina*) and fisher (*Marles pennanti*);
4. to permit the keeping of all these species (ie mink, Arctic fox, racoon dog, sable and fisher) for scientific research, rehabilitation and exhibition (zoos).

The Scottish Executive received 25 responses: 20 in favour, 2 against and 3 with no opinion on the proposal. Points 3. and 4. above have not been included in the Bill. The Bill prohibits the keeping of any animal for slaughter for the value of its fur which makes the listing of individual species unnecessary (3.). As far as point 4. is concerned, the Executive concluded that there were other appropriate legislative means to control the keeping the named animals for scientific research, rehabilitation and exhibition.

The vast majority of respondents was in favour of the proposal. This included Scottish Natural Heritage, Compassion in World Farming, the Royal Society for the Protection of Birds and Respect for Animals. Reasons for supporting the ban varied from the environmental damaged caused by minks to issues over animal welfare on fur farms and ethics.

The two objections to the proposals came from the British Fur Trade Association (BFTA) and the International Fur Trade Federation (IFTF) both based in England. Their main argument read as follows:

*"It cannot be consistent or reasonable to ban all species from being farmed for their skins, while allowing the same species to be kept for their meat or some other reason, when identical housing, feed and slaughter methods may be used."*²⁵

The consultation exercise did not elicit a response from any fur farm in Scotland.

²⁴ Consultation document available at: www.scotland.gov.uk/consultations/fur-00.asp

²⁵ BFTA's Letter in response to SE consultation

THE FUR TRADE ASSOCIATIONS

Reacting to the UK government's announcement to ban fur farming, the BFTA argued:

- that the bill would sideline Britain in the future debate on improving the animal welfare standards that remain in more than 6,000 fur farms throughout Europe
- that British fur farms could adopt high animal welfare standards²⁶

The BFTA²⁷ also stated:

"There are significant international implications if such a draconian step was taken as 85% of the world's fur is produced on farms - the majority within the European Union."

"Maintaining and constantly improving animal welfare standards is an economic reality for all successful fur farmers. It is in a fur farmer's interests to breed healthy animals — good health shows in the gloss of the fur of the animal."

The BFTA also argued that the cost of a UK ban would be high for British taxpayers:

- "in compensation payments to 11 farmers and their families whose livelihoods will be destroyed — estimated by the Government to be £1.6m;
- in the high cost to society in setting a potentially dangerous precedent for criminalising other farming activities without proper justification;
- in the knock-on cost to UK rural economies and communities as production moves elsewhere."

ANIMAL WELFARE GROUPS

The World Society for the Protection of Animals (WSPA) produced a report in 1998 which sums up well the argument against fur farming. It highlights the welfare and the moral issues:

"Researchers have suggested that conditions on fur farms might be improved in order to satisfy animals' needs. Mink might be given swimming pools and an enriched environment. Foxes might be kept in family groups and given an opportunity to dig, hide and view their surroundings from a vantage point. In practice, however, it is impossible to provide an environment which meets the physiological and ethological needs of mink and fox without rendering the whole operation uneconomic for the fur farmer."

"There has been much ethical debate concerning whether the killing of animals for trivial purposes is morally justifiable and about what is a 'necessary' use of animals. For something to be morally necessary it is

²⁶ http://newsvote.bbc.co.uk/low/english/uk_politics/newsid_524000/524822.stm

²⁷ <http://www.britishfur.com/farming.html>

not enough for it to be desirable, fashionable, traditional or convenient. It needs to be essential to life. It may have been true that in the not very distant past human survival may have depended on killing animals for fur. But this is certainly not the case today.

Neither the trapping nor the farming of animals for fur is necessary. The rearing and killing of animals on fur farms for the trivial purpose of supplying fashion demand for furs can only be regarded as an unethical practice. Moral opinion condemns the use of animals for such trivial uses. This view is shared by people from all walks of life, including animal welfare, religion, philosophy, the environment, and the media as may be seen from the following statements.”²⁸

PUBLIC OPINION

Several surveys have been carried out in the UK on the subject of fur wearing. The results consistently show large majorities of people opposed to the trapping and breeding methods by which fur is obtained. 55% of people surveyed by MORI in 1996 strongly agreed that there should be a ban on the farming of animals for their fur. An additional 21% tended to agree. Only 2% strongly disagreed.²⁹

Answering questions in the Commons on the announcement of a ban on fur farming, UK junior Agriculture Minister Elliot Morley said a public consultation exercise had found there was overwhelming public support to ban the practice. He also added:

“The public of this country find fur farming unacceptable. We know from the many representations received that there has been longstanding concern about the practice of fur farming and I want to make it absolutely clear our commitment to bring it to an end through legislation.”³⁰

Research Notes are compiled for the benefit of Members of Parliament and their personal staff. Authors are available to discuss the contents of these papers with Members and their staff but cannot advise members of the general public.

²⁸ WSPA Fashion Victims report (1998) http://www.information.com/investig/fash_vic/wspafa01.htm

²⁹ as reported by Respect for Animals at <http://www.respectforanimals.org/respect.html>

³⁰ as reported by BBC news at http://news.bbc.co.uk/1/hi/english/uk_politics/newsid_142000/142619.stm