

**Draft Act
of the Federal Government**

Draft of an Act on the Introduction and Use of an Animal Welfare Label
(Animal Welfare Label Act [Tierwohlkennzeichengesetz – TierWKG])

A. Problem and objective

Surveys have documented that many consumers would like a label for food products which provides information about the animal's welfare during the keeping, transport and slaughter of the livestock from which the food products are made. In general, many consumers are prepared to pay higher prices for food products of animal origin if they can credibly assume that animal protection standards which clearly exceed the already existing minimum animal protection standards apply in the production of these food products. There are already numerous private-sector labels on the German market for food products which are based on various standards defined by the industry. The current labelling of food products of animal origin with which standards higher than the statutory minimum animal protection standards are complied with during production is thus very disparate. This causes confusion and a lack of transparency, resulting in consumer uncertainty. The state-regulated labelling of food products of animal origin acts upon the expectations of consumers, supports farmers and results in an improvement of animal welfare in livestock keeping.

B. Solution

A uniform animal welfare label which lays down binding criteria for products of animal origin extending beyond the already existing statutory requirements will be introduced on a federal level. The use of the animal welfare label is voluntary, but it will be bound to the fulfilment of certain requirements for the keeping, transport and slaughter of animals from which food products are made. These requirements will be defined in detail by a statutory instrument to be enacted on the basis of this Act. Compliance with the requirements will be checked on a regular basis.

C. Alternatives

None.

D. Budgetary expenditure exclusive of compliance costs

None.

E. Compliance costs

E.1 Compliance costs for citizens

None.

E.2 Compliance costs for business

The Draft will result in compliance costs for businesses.

[...]

E.3 Administrative compliance costs

The Draft will result in administrative compliance costs.

[...]

F. Additional costs

No effects on individual prices are to be expected.

[...]

Draft Act of the Federal Government

Act on the Introduction and Use of an Animal Welfare Label (Animal Welfare Label Act [Tierwohlkennzeichengesetz – TierWKG])

From ...

The Federal Parliament has adopted the following Act:

Section 1 Purpose and use of the animal welfare label

§ 1 Purpose

This Act regulates the animal welfare label and its use.

§ 2 Labelling of food products

(1) The animal welfare label may be used to label food products of animal origin if the requirements of this Act and the statutory instruments enacted in accordance with this Act have been fulfilled during the keeping, transport and slaughter of the animals from which the food products were made.

(2) These requirements must clearly exceed the requirements which must be fulfilled in accordance with the applicable regulations on the protection of the animals during their keeping, transport and slaughtering.

(3) Several gradations are to be provided for in terms of the requirements to be fulfilled. A higher level must provide stricter requirements than the respective level below it.

* Notified in accordance with 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).

§ 3 Advertising

The animal welfare label may also be used for advertising

1. for food products which may be labelled with the animal welfare label, and
2. for companies which produce, transport or place on the market food products pursuant to Number 1.

§ 4 Voluntariness

The use of the animal welfare label is voluntary.

Section 2

Procedure to obtain entitlement to use the animal welfare label

§ 5 Use for domestic food products and domestic animals

(1) Before the initial use of an animal welfare label, the party who intends to use the animal welfare label must notify the Federal Office of Agriculture and Food (the Federal Office) of the planned use. A copy of the certification pursuant to § 16(1)(3) is to be enclosed with the notification, and it shall indicate:

1. that the requirements of this Act and the statutory instruments enacted on the basis of this Act have been met and,
2. that, if a statutory instrument pursuant to § 22(1) provides for gradations, the statutory instrument's requirements for the level of animal welfare label which the notifying party wishes to use have been met.

(2) The Federal Office shall confirm the receipt of the notification and the certification in written form within ten working days after receiving them, and shall assign a list number.

(3) The animal welfare label may only be used once the confirmation pursuant to (2) has been received.

§ 6 Use for foreign food products and foreign animals

(1) If the animal welfare label is to be used for the labelling of food products which:

1. are obtained in another Member State of the European Union (a Member State) or
2. originate from animals which are kept, transported or slaughtered in a Member State,

then the party responsible for transport from the Member State shall notify this to the Federal Office before initial use. Documents are to be enclosed with the notification:

1. which plausibly indicate that:
 - a) during the keeping, transport and slaughter of the animals from which the food products were made, which are to be indicated using the animal welfare label,
 - aa) requirements were complied with which are at least equivalent to the requirements for the keeping, transport and slaughter of animals pursuant to this Act or a statutory instrument enacted on the basis of this Act; and
 - bb) no circumstances are at hand which correspond to those described in § 16(1)(2),
 - b) if a statutory instrument pursuant to § 22(1) provides for gradations, requirements which are equivalent to those of the level of animal welfare label which is to be used have been met,
 - c) inspections concerning compliance with the requirements pursuant to (a) are conducted in the country of origin,
 - aa) the scope and frequency of which correspond to at least the requirements of § 16(1) and (2) and
 - bb) which are conducted by bodies which meet requirements which are equivalent to those in § 13(1), and
2. which sufficiently document the following for traceability:
 - a) the keeping, transport and slaughter of the animals from which food products are made which are to be labelled with the animal welfare label; and
 - b) the production of food products from such animals.

If the checks specified in sentence 2 Number 1 Letter c are entirely conducted by official bodies, then the requirements listed there are deemed to have been met. § 5(2) and (3) shall apply accordingly.

(2) If the animal welfare label is to be used for the labelling of food products which:

1. are obtained in a Non-Member State or
2. originate from animals which are kept, transported or slaughtered in a Non-Member State,

this will require prior authorisation from the Federal Office. The authorisation is to be applied for by the party which is responsible for the importation from the Non-Member State. The Federal Office shall issue the authorisation if the applicant:

1. has plausibly demonstrated that:
 - a) during the keeping, transport and slaughter of the animals from which the food products were made, which are to be indicated using the animal welfare label, requirements were complied with which are at least equivalent to the

requirements for the keeping, transport and slaughter of animals pursuant to this Act or a statutory instrument enacted on the basis of this Act;

- b) if a statutory instrument pursuant to § 22(1) provides for gradations, requirements which are equivalent to those of the level of animal welfare label which is to be used have been met;
 - c) inspections concerning compliance with the requirements pursuant to (a) are conducted in the country of origin,
 - aa) the scope and frequency of which correspond to at least the requirements of § 16(1) and (2) and
 - bb) which are conducted by bodies which meet requirements which are equivalent to those in § 13(1), and
2. which has sufficiently documented the following for traceability:
- a) the keeping, transport and slaughter of the animals from which food products are made which are to be labelled with the animal welfare label; and
 - b) the production of food products from such animals.

If the checks specified in Sentence 3 Number 1 Letter c are entirely conducted by official bodies, then the requirements defined there are deemed to have been met. § 16(1)(2) applies accordingly to the issue of the authorisation. The authorisation is to be connected to the allocation of a list number.

§ 7 Transfer of packaged food products to third parties

A notification pursuant to § 5(1) is not required if the animal welfare label is exclusively used in the scope of the transfer of packaged food products to third parties.

§ 8 Label user

The label user is the party:

1. to whom the Federal Office has confirmed the receipt of the notification pursuant to § 5(2) or § 6(1)(4) in conjunction with § 5(2) and who may use the animal welfare label or
2. who may use the animal welfare label as holder of an authorisation pursuant to § 6(2).

Section 3

Obligations of label users in the transfer of animals and products of animal origin

§ 9 Accompanying documents

(1) Subject to a statutory instrument pursuant to § 22(3)(1), label users are to provide the recipient with an accompanying document during the transfer of

1. animals whose products are to be marked with the animal welfare label, or
2. products of animal origin which are or are to be marked with the animal welfare label.

The accompanying document must indicate that the transfer was preceded by the fulfilment of the requirements of this Act and the statutory instruments enacted on the basis of this Act.

(2) The accompanying document can also be created in electronic form. In this case, an electronic transfer to the recipient by the time of transfer will suffice.

Section 4

Announcements and publications of the Federal Office

§ 10 Announcements of the label users and the approved inspection bodies

(1) The Federal Office shall announce in the Federal Gazette:

1. the name, address and list number of the label users who have been given a confirmation pursuant to § 5(3) or § 6(1)(4) in conjunction with § 5(2) or issued an authorisation pursuant to § 6(2);
2. the point in time as of which a label user is prohibited from using the animal welfare label or as of which the label user refrains from using the animal welfare label; and
3. the name and address of the approved inspection bodies.

§ 11 List of label users

(1) The Federal Office publishes a list of label users with specifications on:

1. the name, address and list number of the label users,
2. the level of the animal welfare label which the label user is allowed to use based on a statutory instrument pursuant to § 22(1).

(2) Publication can be made in electronic form.

(3) The Federal Office deletes the information about a label user from the list without delay if the label user is prohibited from using the animal welfare label or the label user has refrained from further use of the animal welfare label.

Section 5

Inspection bodies

Subsection 1

Authorisation and cessation of activities

§ 12 Inspection bodies

The inspection body is the institution which the Federal Office has authorised as the inspection body for verifying fulfilment of the requirements of this Act and the statutory instruments enacted on the basis of this Act for the keeping, transport and slaughter of animals and for verifying compliance with the requirements by the label users.

§ 13 Authorisation of the inspection bodies

(1) An institution is to be authorised as inspection body by the Federal Office if it is ensured that:

1. it has the necessary organisational structures, the necessary personnel and the necessary resources to fulfil its tasks in a suitable and independent manner,
2. it has the necessary technical equipment which is necessary to perform the checks and inspections properly,
3. it is independent of the bodies and persons which
 - a) are involved with the keeping, transport or slaughter of animals from which food products are made which are to be labelled with the animal welfare label, and
 - b) are involved in the use of the animal welfare label or are otherwise dependent of the results of the inspection bodies' checks and inspections,
4. the personnel it employs is reliable and has the necessary qualifications and sufficient experience for the proper performance of the checks and inspections and
5. it conducts suitable and effective quality assurance with regular inspections.

(2) The authorisation can be bound to special conditions, even retroactively, if this is necessary to ensure fulfilment of the requirements pursuant to (1) or fulfilment of the obligations pursuant to § 16 to 20.

(3) The authorisation is to be revoked if the institution no longer meets the prerequisites for the authorisations. Contrary to sentence 1, the Federal Office may order the authorisation to be suspended, or in less important cases, refrain from revoking the authorisation, if it is to be expected that the prerequisites for the authorisation can be fulfilled once again within a reasonable period of time.

§ 14 Remuneration

The inspection body may demand a reasonable remuneration for its activity.

§ 15 Cessation of activities

(1) If an inspection body intends to cease its activity, it shall inform the label users it monitors and the Federal Office of this no fewer than three months before the anticipated end of its activity. If it files an application to initiate insolvency proceedings, it must give notice immediately upon filing the application.

(2) Unless precluded by regulations under insolvency law, the inspection body may only cease its activities if it is ensured that monitoring will continue to be carried out in relation to all of the label users under its supervision.

Subsection 2

Duties of the inspection bodies

§ 16 Checks and inspections of the label users

(1) At the request of the party intending to use the animal welfare label, the inspection body shall check whether said party meets the requirements of this Act and the statutory instruments enacted on the basis of this Act for the keeping, transport and slaughter of animals. In the scope of this check, the inspection body shall also assess whether violations of the provisions of the Animal Protection Act and statutory instruments enacted on the basis of the Animal Protection Act are at hand which could jeopardise the reputation of the animal welfare label. The inspection body shall issue a certificate on the result of the check pursuant to sentence 1 including the assessment pursuant to sentence 2. The certificate must indicate the allocation to a level with respect to the label, if a statutory instrument pursuant to § 22(1) provides for gradations. The certificate is to be transferred to the party who requested the check, or to its representative.

(2) The inspection body shall regularly check whether the label users meet the requirements of this Act and the statutory instruments enacted on the basis of this Act for the keeping, transport and slaughter of animals. The inspection body shall inspect label users who keep, transport or slaughter animals at least twice a year; of these, one inspection per year shall be carried out unannounced. The inspection body shall create an inspection report after the completion of each inspection. The inspection report is to be transferred to the label user or its representative.

(3) Paragraphs 1 and 2 do not apply to label users who have been issued an authorisation pursuant to § 6(2).

(4) The employees of the inspection body must maintain the confidentiality of the checks and inspections and the results thereof. This does not apply in the case of § 20 as well as with respect to the Federal Office. Publications on circumstances or findings relating to the checks and inspections of the fulfilment of the requirements for the use of the animal welfare label may only be made with the express consent of the parties concerned.

(5) The inspection body shall ensure that the employees charged with conducting the checks and inspections are independent of the bodies or persons who are involved with the fulfilment of the requirements of this Act and the statutory instruments enacted on the basis of this Act for the keeping, transport and slaughter of animals or otherwise dependent on the results of the checks and inspections.

§ 17 Reporting of irregularities and violations

(1) The inspection body shall inform the Federal Office without delay if it:

1. detects irregularities or violations of the provisions of this Act or a statutory instrument enacted on the basis of this Act during inspections, or
2. otherwise gains knowledge that a label user has violated the provisions of this Act or a statutory instrument enacted on the basis of this Act in a severe manner.

(2) If, during its inspection activities, the inspection body gains knowledge of significant or repeated violations of the provisions of the Animal Protection Act or a statutory instrument enacted on the basis of the Animal Protection Act, it shall report these violations to the competent state authority.

§ 18 Register of label users

The inspection body shall keep a register of the label users involved in its inspections. It is authorised to collect, save and use the following personal data of the label user in order to keep the register:

1. Name and address and
2. Content and scope of the activity.

§ 19 Retention and notification obligations

(1) The inspection body is obligated to create a transcription or copy of the certificate pursuant to § 16(1)(3) and of the inspection report pursuant to § 16(2)(3). It must retain the transcription or copy for five years as of the certificate's date of issue or, in the case of the inspection report, as of the date of the final version of the inspection report, and destroy or delete the transcription or copy once the retention period elapses. Retention or publication duties pursuant to other legislation remain unaffected.

(2) In order to fulfil its tasks specified in § 21(1) and § 23, the inspection body shall send the Federal Office the inspection report pursuant to § 16(2)(3) as well as any potential comments and statements of the label user.

§ 20 Disclosure to other inspection bodies

Furthermore, the inspection bodies shall disclose information to one another which is needed for proper performance of the checks and inspections of compliance with the provisions of this Act and the statutory instruments enacted on the basis of this Act.

Subsection 3

Monitoring of the inspection bodies

§ 21 Monitoring of the inspection bodies

(1) The Federal Office monitors the activities of the inspection bodies. For this purpose, the inspection bodies and the label users must disclose information to the Federal Office at its request.

(2) During this monitoring, employees of the Federal Office who are charged with performing the monitoring as per (1) may enter business premises, offices and working areas, storage

rooms, sales facilities and means of transport of the party subject to the disclosure obligation during business and work hours, where it may:

1. conduct inspections;
2. view and check business documents and, if necessary, create duplicates;
3. take samples in exchange for an acknowledgement receipt; and
4. create image and audio recordings, except for image recordings of persons, for documentation purposes.

In the case of sentence 1(3), part of the sample or, if it cannot be split, a second sample, shall, at the request of the party concerned, be locked away by the authorities and kept sealed. If it is not economically feasible to relinquish the samples pursuant to sentence 1(3) free of charge, then suitable compensation shall be paid upon request.

(3) The party subject to disclosure obligation shall allow the measures pursuant to paragraph 2(1), assist the persons charged with carrying out these measures and present the business documents necessary for these measures to be conducted.

(4) The party subject to disclosure obligation may refuse to disclose in case of questions which, if answered, would place the party itself or one of the relatives described in § 383(1)(1) to (3) of the Code of Civil Procedure at risk of criminal prosecution or proceedings pursuant to the Code of Administrative Offences.

Section 6

Powers to issue statutory instruments

§ 22 Powers to issue statutory instruments

(1) The Federal Ministry of Food and Agriculture is empowered to regulate the details on the requirements for the keeping, transport and slaughter of animals from which food products are made which are to be marked with the animal welfare label, as provided for by § 2(1) and (3), by way of statutory instrument without the consent of the Bundesrat, and in particular to enact provisions on requirements for:

1. the animals' diet, mobility and need for community;
2. rooms, cages, other containers and other facilities for housing the animals as well as the quality of feed and drinking facilities;
3. the lighting conditions and stall climate in the facilities for housing the animals;

4. the feeding and care of the animals, including their monitoring; in this case, the Federal Ministry of Food and Agriculture may require records on the results of the care to be made, retained and presented to the inspection body upon request;
5. the knowledge and skills of persons who keep, care for or have to care for animals, and for the proof of said knowledge and skills;
6. safety measures in case of technical faults or a fire in the facilities for housing the animals;
7. the transportability of the animals;
8. the transport conditions and means of transport as well as the loading and unloading of the animals;
9. the slaughter of the animals; in this case the Federal Ministry of Food and Agriculture can regulate, specify or prohibit particular stunning and killing methods in greater detail;
10. the type and extent of the skills and knowledge which are necessary to stun or kill vertebrates, as well as for the means of proving said skills and knowledge;
11. for the stunning and operations beyond the requirements pursuant to § 5 and 6 of the Animal Protection Act;
12. for the participation in a system for recording animal-related features (animal protection indicators); as well as
13. the use of the animal welfare label for compound food products if one ingredient of the compound food product bears the animal welfare label.

Moreover, animal protection provisions may be defined in the statutory instrument pursuant to sentence 1 which, if not complied with, are capable of jeopardising the reputation of the animal welfare label in the sense of § 16(1)(2).

(2) The Federal Ministry of Food and Agriculture is also empowered to regulate the following by means of a statutory order without the approval of the Bundesrat:

1. the design of the animal welfare label, also in terms of the gradations pursuant to § 2(3);
2. the connection of the animal welfare label with information on the origin of the animal from which the food product to be marked has been obtained;
3. further details on the content of the advertising pursuant to § 3;
4. further details on the prerequisites and the procedure for authorisation pursuant to § 6(2);
5. further details on the prerequisites and the procedure for approval pursuant to § 13;
6. further details on the notification and confirmation pursuant to § 5 and § 6(1);
7. further details on the content of the list of label users pursuant to § 11;
8. the means of inspecting the label users by the inspection bodies, in particular the extent of the inspections;
9. a shortening or prolongation of the period of time for the inspections pursuant to § 16(2)(2);

10. specifications for the inspection report pursuant to § 16(2)(3), in particular the minimum information which the inspection report must contain;
11. further details on the process of informing the Federal Office pursuant to § 17; as well as
12. the transfer of the Federal Office's tasks, be it entirely or in part, to a person under private law by way of delegation.

The person under private law to whom the Federal Office's tasks are transferred pursuant to sentence 1(12), must be qualified, independent and reliable and must furthermore guarantee that it has the necessary equipment and organisation to fulfil the tasks transferred to it.

(3) The Federal Ministry of Food and Agriculture is empowered to do the following via statutory instrument without the consent of the Bundesrat:

1. allow exemptions from the obligation pursuant to § 9(1) if the obligation is not necessary to ensure the traceability of the products of animal origin,
2. enact provisions on the following for the purpose of ensuring the traceability of products of animal origin which are or are to be marked with the animal welfare label:
 - a) the type, form and content of the accompanying document pursuant to § 9,
 - b) in the case of packaged products, the option of replacing the accompanying document pursuant to § 9 with a label, and on the duties for this labelling and further details, in particular the content to be specified on the label and the form of the label,
 - c) duties to record, carry, keep and submit documents which are necessary to ensure traceability.

(4) The Federal Ministry of Food and Agriculture is furthermore empowered to stipulate the automated recording of the data in the accompanying document by the Federal Office and provide for further details for the purpose of ensuring the traceability of products of animal origin which are or are to be marked with the animal welfare label by way of statutory instrument without the consent of the Bundesrat. In this context, provisions in particular on the collection, storage and deletion of the label users' personal data specified in the accompanying document may be enacted for the purposes listed in sentence 1.

(5) Statutory instruments pursuant to paragraphs 1 and 2 are to be forwarded to the Bundestag prior to promulgation. They may be modified or rejected by means of a resolution from the Bundestag. The resolution from the Bundestag shall be forwarded to the Federal Ministry of Food and Agriculture. The Federal Ministry of Food and Agriculture is bound to the resolution when promulgating the statutory instrument. If the Bundestag has not dealt with a statutory instrument within three session weeks of receipt, the unchanged statutory instrument shall be sent to the Federal Ministry of Food and Agriculture.

Section 7

Interdiction, prohibitions

§ 23 Interdiction

(1) The Federal Office interdicts the use of the animal welfare label if, on the basis of an inspection report pursuant to § 16(2)(3) or other instructions pursuant to § 17, repeated violations or a non-trivial violation of the provisions of this Act or a statutory instrument enacted on the basis of this Act have been detected.

(2) The Federal Office shall hear the label user prior to its decision on the interdiction. If the hearing results in doubts as to whether the conditions for an interdiction have been met, the Federal Office shall investigate the circumstances that are decisive for its decision.

§ 24 Prohibitions

(1) It is prohibited:

1. to place food products which were obtained from animals with which the requirements of a statutory instrument enacted pursuant to § 22(1) were not fulfilled during their keeping, transport and slaughter onto the market with the animal welfare label;
2. to place the food products specified in § 6(2)(1) onto the market with the animal welfare label without authorisation;
3. to place on the market a food product or other item with a marking imitating the animal welfare label which could cause deception as to the type of production, composition or other commercially relevant properties of the marked food product or item;
4. to use the animal welfare label for advertising purposes other than those specified in § 3.

(2) Other provisions on the marking of food products remain unaffected.

Section 8

Penal provisions and provisions on administrative fines; entry into force

§ 25 Penal provisions

The following are liable to imprisonment for up to one year or a fine:

1. placing a food product or item onto the market in violation of § 24(1)(1) in conjunction with a statutory instrument § 22(1)(1) numbers 1 to 3, number 4 sentence segment before the second clause, number 7, 8, 9 or 13 or in violation of § 24(1) number 2 or 3, or

2. using an animal welfare label in violation of § 24(1)(4) in conjunction with a statutory instrument as per § 22(1)(1) numbers 1 to 3, number 4 sentence segment before the second clause, number 7, 8, 9 or 13.

§ 26 Provisions on administrative fines

- (1) An administrative offence is committed by any party which negligently perpetrates an act described in § 25.
- (2) An administrative offence is committed by any party which fails to submit a notification, or does not do so correctly, in full or in good time, in violation of § 5(1)(1) or § 6(1)(1).
- (3) An administrative offence is committed by any party which deliberately or negligently contravenes a statutory instrument pursuant to § 22(1)(1) number 4 second clause, number 5, 6, 10, 11 or 12, or paragraph 3 sentence 1 number 1 or 2, or an enforceable instruction based on such a statutory instrument, if the statutory instrument makes reference to this fine provision for a particular offence.
- (4) The administrative offence may be punishable by a fine of up to thirty thousand euros.
- (5) The administrative authority as defined in § 36(1)(1) of the Administrative Offences Act is the Federal Office.

§ 27 Confiscation

If a criminal offence pursuant to § 25 or an administrative offence pursuant to § 26(1) has been committed, then

1. items to which the criminal or regulatory offence relates, or
 2. items which were used or intended to commit or prepare for the offence,
- can be confiscated. § 74a of the German Criminal Code and § 23 of the Code of Administrative Offences shall be applied.

§ 28 Entry into force

This Act shall enter into force on the day following its promulgation.

Explanatory statement

A. General part

I. Aim, subject and key provisions

The Act on the Introduction and Use of an Animal Welfare Label is intended to create the legal basis for a transparent labelling of food products of animal origin in the production of which animal production standards were complied with which are clearly higher than the minimum requirements defined by law. The aim of the animal welfare label is to create living conditions for livestock animals which are more appropriate to the species, to provide desired and reliable orientation for consumers and to give livestock owners incentives to take greater action to ensure the animals' welfare and ultimately improve their image, thus creating better opportunities for marketing.

Consumers place great value when shopping on freedom of choice and clear labelling on the product, in particular in terms of animal welfare, in order to improve animal protection in Germany with their buying decisions. Thanks to a legally regulated, uniform and concise label, consumers are able to recognise products from a particular production at first glance and are thus able to make a conscious decision for greater animal welfare when shopping.

An animal welfare label offers producers the opportunity of transparently communicating animal welfare beyond the statutory minimum animal protection standard. This way, the existing demand can be served and the higher price required by the higher production costs can be achieved.

The use of the animal welfare label is voluntary, but its use requires binding criteria which will be monitored for compliance. At the same time, it is checked whether and to what extent it will be possible in the future to establish a binding animal welfare label throughout Europe. The animal welfare label is to be issued on multiple levels in order to optimise the marketing opportunities of the products. The requirements on the various levels (which build upon one another) are above or considerably above the already applicable statutory standards in Germany.

The opportunity is created to voluntarily associate the animal welfare label with an indication of origin. This association should also apply to certain processed animal products. After evaluating the experiences with this voluntary indication of origin with the animal welfare label and in consideration of the evaluation reports on national origin regulations of other

Member States, the aim is to refine and expand the indication of origin on a European level wherever possible.

Compliance with the defined requirements for the use of the animal welfare label is monitored by private inspection bodies which are approved and monitored by the Federal Office of Agriculture and Food (the Federal Office). The penalty for violations of this Act as a criminal or administrative offence ensures the necessary deterrent effect in order to prevent misuse of the animal welfare label and thus secure and/or increase consumers' trust in the label. A particular form of state subsidy is envisaged.

Details on the requirements for the use of the animal welfare label, the prerequisites as well as the procedure for approving the inspection bodies and the design of the animal welfare label are to be provided for in statutory instruments.

II. Legislative powers of the Federal Government

In accordance with Article 72(2) of the Constitution, the Federal Government has the right to enact legislation in the field of concurrent legislation, amongst other things in the areas of Article 74(1)(11) (business law) and number 20 of the Constitution (law on food products, including the animals used to make them, animal protection) if and insofar as the establishment of equivalent living conditions in the federal territory or the preservation of legal and economic unity in the national interest necessitates an arrangement on federal level.

The introduction of a uniform federal animal welfare label furthermore necessitates a regulation on federal level to preserve legal and economic unity in the national interest. The purpose of the animal welfare label is to inform consumers through its uniform design of products from a particular production which is above the minimum animal protection standards and to set uniform standards concerning the criteria for the issue of the animal welfare label for the entire federal territory. Only by means of a uniform regulation under Federal Law can it be ensured that a uniform legal framework is in place for Germany as a business location with regard to the use of the animal welfare label.

A regulation under Federal Law is also necessary to preserve legal and economic unity in terms of the uniform design of the monitoring procedure for verifying the prerequisites for the use of the animal welfare label in Germany, for instance by establishing uniform prerequisites for the approval of private inspection bodies and by establishing the tasks they are to fulfil in the national interest. In the case of monitoring procedures which are regulated differently under Federal State Law, different competition conditions would emerge at a regional level in relation to both the inspection bodies and the establishments being monitored.

A great number of agricultural and food-producing enterprises have operating units or subsidiaries in different federal states and are interested in having the entire manufacturing process monitored by a single inspection body. The inspection bodies also have an interest in transnational activity. National approval of inspection bodies is required, which can only be awarded by a central body with sole decision-making authority with the aim of ensuring efficiency.

The Federal Government has also made use of its concurrent legislative competence pursuant to Article 74(1)(1) of the Constitution by way of the penal and administrative fine provisions laid down in the Act.

III. Compatibility with European Union law and international treaties.

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

IV. Compliance Costs

V. Further Costs

VI. Sustainability

The introduction of an animal welfare label is in line with the goals of the national sustainability strategy (DNS). Management Rule 9 of the DNS shows that stricter requirements for keeping livestock in a manner appropriate to the species promotes sustainable agriculture: ‘Sustainable agriculture must be productive and competitive, must at the same time be environmentally compatible and must also observe the requirements for livestock keeping in a manner appropriate to the species and preventative consumer protection, especially health-related.’ The use of the label gives farmers an opportunity to increase their competitiveness. Consumers can consciously decide for greater animal welfare when shopping and thus practice sustainable consumption. The National Programme for Sustainable Consumption (NPNK) enacted by the Federal Government in 2016 is linked to the DNS and makes reference to the importance of a diet in line with animal protection interests. Moreover, farmers can achieve a greater income through higher prices for products from better holding conditions.

VII. Implications for equality policy

No implications of significance in terms of equality policy are anticipated, since the Act contains no provisions that impact on the specific situations of men and women.

B. Specific Part

Re § 1 (Purpose)

§ 1 defines the aim and contents of the Act.

Re § 2 (Labelling of food products)

§ 2 makes it clear that products in the production for which animal protection requirements were met for the keeping, transport and slaughter of animals which, in the sum of the requirements, are clearly stricter than the minimum statutory standards may be marked with the animal welfare label. The labelling of food products of animal origin with an animal welfare label is intended to serve the societal demands for trustworthy, independent, transparent and higher animal protection standards and thus ensure better consumer orientation.

Paragraph 3 makes it clear that multiple gradations are provided for regarding the requirements to be fulfilled, which contributes to a clear differentiation of the criteria to be complied with on each level, whereby a higher level must always stipulate stricter requirements than the previous level.

Re § 3 (Advertising)

§ 3 lays down that companies which use the animal welfare label may do so for particular advertising purposes. Advertising with the animal welfare label enables better consumer information concerning the higher animal protection standards at the companies.

Re § 4 (Voluntariness)

§ 4 makes it clear that the use of the animal welfare label is on a voluntary basis.

Re § 5 (Use for domestic food products and domestic animals)

Paragraph 1 defines the products and purposes for which the label may be used. The requirements of a statutory instrument to be enacted in accordance with § 22(1) are binding

and must be complied with for the use of the animal welfare label. The requirements for the animal welfare label, which go beyond the regulations in effect, are to be complied with, implemented and fulfilled continuously and in full in the individual respective production stages of keeping, during the entire transport process as well as before and during slaughter. This enclosed implementation of the standards during keeping, transport and slaughter are the fundamental prerequisites for the food products of animal origin to be marked with the animal welfare label.

Paragraph 3 establishes that the planned use of the animal welfare label must be notified to the Federal Office. A copy of the certification on the inspection pursuant to § 16(1)(3) is to be enclosed with the notification. To prevent misuse, the animal welfare label may only be used after the confirmation has been received. The Federal Office shall confirm receipt of the notification and the certification within 10 days and shall issue a list number at the same time.

Re § 6 (Use for foreign food products and foreign animals)

§ 6 establishes a provision for the use of the animal welfare label for products which originate from other countries or from animals which were kept, transported or slaughtered in other countries. A notification procedure must also be passed for domestic participants in order for products and animals from Member States to take part in the animal welfare label. In the process, the party responsible for transport to Germany must prove that the animals / products comply with requirements which correspond to those for the products originating from Germany. This proof can be rendered by, for instance, submitting certificates in accordance with accredited private certification bodies. If official inspections review the requirements, then the requirements are deemed to have been fulfilled. On one hand, § 6 serves for the sake of animal protection and consumer protection to ensure that the requirements for the use of the animal welfare label are complied with in a reliable and transparent manner, even for products from foreign countries. On the other hand, it should enable equal market participation from other EU countries and equal access to the animal welfare label system. European market participants should be able to take part in the animal welfare label system, with its economic and animal welfare-promoting benefits, just as easily as German market participants. These two objectives are achieved by a simultaneous administrative procedure having to be passed by the national participants as well as by the necessity to comply with equivalent requirements. In the notification procedure, the reference to the standard of § 16(1)(2) also ensures that the general level of animal protection under National Law is not fallen short of. Increased effort in comparison with the national animal welfare label participants who rely on checking and inspections by the approved inspection bodies is not expected thanks to the possibility of using accredited testing bodies in the Member State to demonstrate compliance with the material requirements. Suitable provisions for specifying,

standardising and simplifying the procedural requirements can be enacted in a statutory instrument on the basis of § 22(2)(1)(6).

Contrary to the principle of the notification procedure in paragraph 1, this stands under an approval provision for animals and products from Non-Member States. This ensures compliance with requirements and monitoring thereof in other countries which are equivalent to those of this Act and the statutory instruments to be enacted. The reference to § 16(1)(2) ensures that the keeping of animals which serve to produce the products addressed in § 6 meet the general requirements under German animal protection law. Here too, it can be assumed that compliance with the requirements can practicably be demonstrated by means of suitable documentary evidence from accredited testing bodies. Corresponding procedural requirements can be defined by means of the statutory authorisation in § 22(2)(1)(4).

The provision corresponds to similar provisions in the scope of state, voluntary labelling systems in the European area (cf. Denmark).

§ 7 (Transfer of packaged food products to third parties)

§ 7 clarifies that a particular use of the animal welfare label is not subject to a notification requirement, such as by food product retailer which uses the animal welfare label exclusively for packaged food products (incl. any potential associated advertising activities). On this level, there is no need for monitoring in the form of a notification procedure on account of the fact that the food products are packaged, and thus the risk of violations (for instance, through changes to the products and/or labelling from the product criteria of non-corresponding products) is minimised. However, if the food product is packaged or processed in another form via transfer as packaged product, for example, the exemption in § 7 does not apply and a notification procedure must be conducted.

For clarification, reference must be made that § 7 does not release one from the notification duty pursuant to § 6(1) as well as the duty to obtain authorisation pursuant to § 6(2).

§ 8 (Label user)

§ 8 provides a definition of the label user.

Re § 9 (Accompanying documents)

The purpose of this provision is the seamless documentation of the movements of animals (and the products thereof) which are kept under the animal welfare label. This serves to

protect the consumer from deception. Accordingly, when transferring animals or products of animal origin which are to be marked with the animal welfare label, a label user shall hand out an accompanying document (which can also be created in electronic form) to the next recipient in question.

Re § 10 (Announcement of the label users and the approved inspection bodies)

A central administrative body is required for the registration of animal welfare label users in order to ensure uniform receipt of notifications on the use of the animal welfare label and monitor compliance with the provisions applicable to the use of the animal welfare label in a targeted manner.

Pursuant to paragraph 1, the Federal Office announces the label users who have been issued a confirmation and a list number pursuant to § 5(2), the time when the entitlement to use the animal welfare label ends, as well as the name and address of the approved inspection body in the Federal Gazette. This is necessary in order to establish transparency and provide information for the label users on the approved inspection bodies.

Re § 11 (List of label users)

In § 11, the Federal Office is charged with publishing a list of label users to whom a confirmation is transferred pursuant to § 5(2) or who have received an authorisation pursuant to § 6(2)(3), along with further information, such as personal data and allocation to a level of animal welfare label. This is necessary in order to be able to pursue cases of suspected misuse quickly. The list (which can also be published in electronic form) shall be corrected accordingly in case of changes concerning the label user's entitlement to use the animal welfare label.

Re § 12 (Inspection body)

Checking of the fulfilment of the decisive requirements prior to initial use of the animal welfare label and the continuous monitoring of compliance with the requirements for the use of the animal welfare label shall be conducted by private inspection bodies. In order to ensure that the inspection body meets the requirements pursuant to § 13 and is capable of completing its tasks properly, § 12 establishes that it must be approved by the Federal Office.

Re § 13 (Authorisation of the inspection bodies)

The option pursuant to Article 87(3)(1) of the Constitution to entrust the Federal Office with tasks for which the Federal Government is entitled to the legislative process is utilised by transferring the competence for the decision on the approval of the private inspection bodies and their monitoring to the Federal Office. The tasks to be transferred to the Federal Office are, based on their typical features, to be completed centrally and can be performed for the entire federal territory by the federally owned administration without making use of the administrative authorities of the states.

For reasons of expedience, the approval and monitoring of the inspection bodies should be transferred to the Federal Office on a central level. Since the Federal Office, as supervisory authority, already has qualified personnel, it is expedient to have the necessary inspections conducted by privately organised bodies and to have these bodies monitored by the Federal Office. The Federal Office's extensive experience in administrative work suggests that the registration of animal welfare label users should also be transferred to it, in order to avoid different competencies in the implementation of this Act. The complete transfer of supervisory competence as well as the registration of animal welfare label users thus ensures the efficient functioning of the animal welfare label by the Federal Office. The transfer of competence to the Federal Office thus increases effectiveness and, in particular, conserves specialised skills.

Paragraph 1 contains the requirements which an inspection body must meet in order to be approved by the Federal Office. This involves the usual requirements, such as independence, presence of the necessary organisational structures, personnel, premises and technical facilities, reliability and sufficient qualification and experience of the personnel, as well as presence of quality assurance with regular inspections. The requirements are necessary to ensure independent inspection in line with generally recognised scientific standards upon which the Federal Office can base its decision on the application for approval.

Paragraph 2 enables the Federal Office to place the approval under conditions in order to ensure that the inspection body fulfils the statutory approval requirements and duties as approved inspection body.

Paragraph 3 establishes a special provision for the Federal Office to revoke an approval. According to this, the Federal Office must revoke the approval if a prerequisite for approval subsequently ceases to apply. According to the principle of proportionality, the authority is obliged to choose the mildest means amongst multiple equally effective means available. For that reason, the Federal Office can also suspend the approval instead of revoking it or refrain

from revoking the approval in order to give the party concerned an opportunity to rectify the reason for revocation.

Re § 14 (Remuneration)

§ 14 provides that the inspection body may request a reasonable remuneration from the label user for its work. Notwithstanding the requirements under civil law and the specific respective legal arrangement of the relationships between the contracting parties, this emphasises that the inspection bodies are entitled to adequate compensation for their work.

Re § 15 (Cessation of activities)

§ 15 serves to protect label users subject to inspection so that if the inspection body ceases its activity, including insolvency, companies are guaranteed the opportunity to continue to participate in the control process with as short an interruption as possible.

Re § 16 (Checks and inspections of the label users)

Paragraph 1 contains the inspection bodies' obligation to incorporate the activity of every person who is interested in using the animal welfare label or who seeks to place a product with the animal welfare label onto the market for the first time in the monitoring system, as long as the provisions of this Act and the statutory instruments enacted on the basis of this Act are fulfilled. The inspection body also assesses whether violations of the provisions of the Animal Protection Act and statutory instruments enacted on the basis of the Animal Protection Act are at hand which could jeopardise the reputation of the animal welfare label. This should ensure that the animal welfare label which should serve to promote animal welfare is not used for food products originating from animals from livestock keeping in which the general animal protection requirements are not met. Fulfilment of the prerequisites to use the label is confirmed with a certificate.

With respect to compliance with the requirements for the use of the animal welfare label and compliance with the requirements of this Act and the statutory instruments enacted on the basis of this Act, paragraph 2 obligates the inspection body to conduct regular inspections on label users who hold, transport or slaughter animals and document the results of these inspections in an inspection report. The inspection is to be conducted at least two times a year, one of which must be unannounced. An unannounced inspection makes it possible to determine whether the binding requirements in question are actually being complied with in practice. This serves to retain the credibility of the animal welfare label.

Paragraph 3 establishes that label users who have received an authorisation pursuant to § 6(2)(3) will not be inspected by the inspection bodies. An inspection by the inspection bodies is not required; compliance with the relevant requirements is ensured by the authorisation procedure.

Paragraphs 4 and 5 provide for further duties of the inspection body relating to confidentiality, reporting and information duties of the inspection bodies and the Federal Office in case of irregularities and violations, as well as the independence of the personnel. Violations of some of these duties are punishable by fines or criminal penalties.

Re § 17 (Reporting of irregularities and violations)

§ 17 establishes further duties for the inspection bodies. The provision in paragraph 1(1) pursues the goal of informing the Federal Office at short notice in case of a justified suspicion of irregularities and violations of this Act and statutory instruments enacted on the basis of this Act by the inspection body. This duty to inform also extends to the discovery of severe violations of the aforementioned provisions, for instance if the criteria for the animal welfare label are fallen short of in a significant manner.

Paragraph 2 obliges the inspection bodies to notify the competent state authorities if they gain knowledge of severe or repeated violations of the provisions of the Animal Protection Act or a statutory instrument enacted on the basis of the Animal Protection Act, for instance if animal protection requirements are repeatedly and massively violated for a long period of time, resulting in persistent pain, suffering and harm to animals.

Re § 18 (Register of label users)

In the interest of transparency and better inspectability, the inspection body is obliged to keep a register of the label users involved in its inspections and to enter notified changes in the register. § 18 defines the information which the registration must contain. Furthermore, with respect to data of natural persons who appear or represent a company as label users (e.g. in cases of partnerships and individual persons), a clause was added on the handling of these data by the inspection bodies.

Re § 19 (Retention and notification obligations)

§ 19(1) establishes a retention duty of the inspection body for the certifications and inspection reports issued to the label users. The retention period is necessary in order to enable proper monitoring of the inspection bodies activities. Moreover, the monitoring authority is also able to review long-term developments in compliance with the requirements for the animal welfare

label with respect to the label user. This appears to be necessary against the background of consumer protection in the reliability of animal welfare labelling and the monitoring system concerning it.

Paragraph 2 obliges the inspection bodies to inform the Federal Office of the result of inspections conducted on label users as to whether they comply with the requirements of this Act and the statutory instruments enacted on the basis of this Act for the keeping, transport and slaughter of animals, as well as of comment and statements of the label user.

Re § 20 (Disclosure to other inspection bodies)

This provision is intended to ensure direct and effective cooperation of the inspection bodies for the proper performance of the checks and inspections by making sure they provide one another with the necessary information.

Re § 21 (Monitoring of the inspection bodies)

With respect to the necessary monitoring of the activities of the inspection bodies and label users, § 21(1) empowers the Federal Office to take the measures necessary to do so.

Paragraph 2 ensures that the employees of the Federal Office charged with performance and monitoring are given the necessary rights, in particular the right to access and inspection, the right to take samples, search, check and receive disclosure, as well as the right to make audio and visual documentation. These provisions merely justify the obligations to tolerate as per paragraph 3 and do not provide a definitive description in this respect of the content of the activities which the employees mentioned are authorised to carry out. The procedures to be applied in exercising these powers comply with the relevant provisions governing the products in question each time. Regarding the economic effects of the samples taken, it is assumed that the samples will be very small in volume (e.g. samples of compound food products, etc.).

Paragraph 4 provides for a right to refuse to disclose information.

Re § 22 (Powers to issue statutory instruments)

Paragraph 1 provides for the necessary empowerment of the Federal Ministry of Food and Agriculture to lay down further details on the use of the animal welfare label by way of statutory instrument without the consent of the Bundesrat.

This Act does not result in any competences of the states.

The requirements for the use of the animal welfare label comprise resource, management and animal-related criteria which must be complied with over the entire life of the animal, including transport and slaughter.

In particular, the details on the use of the animal welfare label are to be established via statutory instrument (paragraph 1). These provisions serve to simplify the specific application of the provisions by the label user and the inspection bodies. Moreover, this statutory instrument can also define animal protection provisions which the label user is also obliged to comply with in order to be able to use the animal welfare label.

Paragraph 2 provides for the necessary authorisation for the Federal Ministry of Food and Agriculture for further provisions in connection with a state label. In particular, the statutory instrument can include details on the design of the animal welfare label (No 1) and on the facultative connection with information on the animal's origin (No 2), on the prerequisites of the approval of inspection bodies (No 5), the notification of the use of the animal welfare label to the Federal Office and their confirmation (No 6) and the monitoring of the label user (No 8). In order to support the simplification of the inspection bodies' work and to ensure the quality of monitoring, minimum requirements for the inspection report (No 10), e.g. the use of certain procedural instructions or the use of forms, may be provided for in a statutory instrument. It is also possible to transfer individual tasks from the Federal Office to a person under private law by way of statutory instrument (No 12). In the process, the tasks can only be transferred to persons who are qualified, independent and reliable. In addition to the necessary professional prerequisites, the requirements for organisation and equipment to be complied with for delegation pursuant to sentence 2 also include that the person under private law can comply with the relevant requirements of data protection law (e.g. standards enacted on the basis of paragraph 4 as well as data protection law in general) and data security.

Paragraph 3 establishes the possibility of creating exemptions from the obligation to transfer accompanying documents if doing so is not necessary for reasons of certainty (e.g. in the case of direct marketing). Moreover, the Federal Ministry of Food and Agriculture is granted the necessary empowerment to define in a statutory instrument details, in particular on the type, form and content of the accompanying documents to be created in this connection for the purpose of ensuring the traceability of products of animal origin which are marked with the animal welfare label. These also include duties on the recording and handling of documents. These include documentation which indicates the scope or volume regarding the actual movement of animals or products of animal origin, as well as written records like bills of delivery or invoices.

Paragraph 4 opens up the possibility of establishing provisions concerning the automatic recording of the data in the accompanying document by the Federal Office. In particular, accompanying data protection regulations can also be made whose enactment is obligatory if the fundamental right to international self-determination is affected on account of the precedence of the Constitution and the regulator's requirement to follow basic law in the interest of reducing discretionary power. This may also potentially affect data such as the name, address or activity of label users which also must be specified in the accompanying documents for the purposes of traceability of the animals and products which are to be marked with the animal welfare label.

Paragraph 5 grants the Bundestag a cooperation reservation in the establishment of statutory instruments. According to it, the approval of the Bundestag (approval reservation) for the statutory instruments pursuant to paragraphs 1 and 2 (also in changes to statutory instruments) is explicitly to be granted or is approved pro forma once three session weeks have elapsed.

Re § 23 (Interdiction)

In accordance with § 23, the use of the animal welfare label is to be prohibited under certain conditions. The Federal Office shall hear the label user before its decision and, in case of doubts, determine the decisive facts for its decision. According to the principle of proportionality, the authority is obliged to choose the mildest means amongst multiple equally effective means available.

Re § 24 (Prohibitions)

§ 24 serves to protect from misuse of the animal welfare label. Accordingly, it is prohibited pursuant to paragraph 1 to place on the market food products other than those designated by the Animal Welfare Label Act and the statutory instrument to be enacted pursuant to § 22(1) which are eligible for marking with the animal welfare label, food products as defined by § 6(1)(2) without the authorisation provided for there or food products with a misleading marking which is an imitation of the animal welfare label or to use the animal welfare label for advertising purposes other than those specified in § 3.

Paragraph 2 clarifies that, in addition to the provisions of this Act, all other provisions for the marking or labelling of food products must be complied with.

Re § 25 (Penal provisions)

The provision contains the criminal offences necessary for violations of the prohibition of placement on the market (§ 24(1)(1)(1) or § 24(1)(1)(2) or (3)) and improper advertising with the animal welfare label (§ 24(1)(1)(4)).

Re § 26 (Provisions on the payment of fines)

This provision contains the necessary offences subject to fines, in particular in case of negligent improper use of the animal welfare label.

Re § 27 (Confiscation)

This provision contains the arrangement of the necessary incidental consequence under criminal law.

Re § 28 (Entry into force)

This provision provides for the entry into force of the Act, which is to take place on the day following its promulgation.