HSI UK welcomes this draft Bill as a means of ensuring that the provisions of Article 13 of the Lisbon Treaty are not lost when the UK leaves the EU. We make two general observations, before considering the specific questions in the EFRA inquiry:

1. The duties prescribed should be applied to all UK public policy-making bodies (including, importantly, non-Ministerial government departments and Local Authorities), not only ‘Ministers of the Crown.’ This would be comparable with the existing scope of the Lisbon Treaty requirements.

2. We recommend for the duty imposed to be to ‘pay full regard’, emulating the Lisbon Treaty language, rather than ‘have regard’, as we are concerned that the latter implies reduced importance, and would not meet the government’s stated aim of replicating current EU law.

3. Potential conflict that may arise in discharging the two named duties
We urge government to allocate resources to ensure the full and proper implementation of the duty to have/pay [full] regard to animals’ welfare needs. We urge consideration of the establishment of a new independent oversight entity (e.g. an Animal Welfare Commission), able both to support the policy-maker’s execution of the duty, as well as scrutinize its full and consistent execution across all relevant departments and policy-making agencies and authorities.

The body should also be charged with reviewing how policy-makers are interpreting the need ‘to have regard to matters affecting public interest’ including ensuring that any perceived conflicts between meeting animals’ welfare needs and safeguarding ‘public interest’ are resolved in a well-informed and consistent way.

4. Definitions within the Bill
We consider that definitions are required for the terms ‘sentient animals’ and ‘welfare needs of animals’. We suggest that 'sentient animals' should be referred to in point (1) of the Bill:

(1) Ministers of the Crown must pay full regard to the welfare needs of sentient animals in formulating and implementing government policy.

Sentient animals should then be defined by the addition of (4):

(4) In this section, “sentient animals” mean all non-human organisms having the awareness and cognitive ability necessary to have feelings, including but not limited to all mammals, birds, reptiles, fish, amphibians, bees, cephalopods, and decapod crustaceans.
The definition of sentience here is taken from Professor Donald Broom's 2014 book 'Sentience and Animal Welfare'.

We also consider it important to define ‘welfare needs of animals’, with the addition of (5):

(5) In this section, “welfare needs of animals” has the same meaning as in Section 9(2) of the Animal Welfare Act 2006.

We also propose that point (e) in the list of needs in the Animal Welfare Act 2006 should be amended from:
(e) The need to be protected from pain, suffering, injury and disease
To:
(e) The need to be protected from pain, SUFFERING, FEAR, distress, injury, disease, AND CHRONIC POOR WELFARE.

In addition to this we would strongly encourage government to undertake a comprehensive review of how the welfare needs of animals can be framed in terms of striving to achieve positive welfare states, not only the avoidance of poor welfare states. In light of recent animal welfare scientific findings the 5 Freedoms is now in some ways outdated, and we would encourage use of more enlightened approach such as the 5 Domains model1.

3. Mode of trial and maximum penalty for certain animal welfare offences
HSI UK fully supports the new increased maximum sentence. We defer to the expertise of the UK Centre for Animal Law and the RSPCA for comments on mode of trial.