



## SCOTTISH EXECUTIVE

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Environment and Rural Affairs Department  
Animal Health & Welfare Division

Pentland House  
47 Robb's Loan  
Edinburgh EH14 1TY

To:  
All organisations on the attached list

Telephone: 0131-244 6482  
Fax: 0131-244 6616  
animal.health@scotland.gsi.gov.uk  
<http://www.scotland.gov.uk>

16 October 2006

Dear Sir/Madam,

**CONSULTATION ON PROCEDURES TO BE EXEMPTED UNDER SECTION 20(5) OF  
THE ANIMAL HEALTH AND WELFARE (SCOTLAND) ACT 2006:  
THE PROHIBITED PROCEDURES (EXEMPTIONS) SCOTLAND REGULATIONS 2007**

I am writing to invite comments on the enclosed consultation document on procedures to be exempted under section 20(5) of the Animal Health and Welfare (Scotland) Act 2006, which addresses the following:

- species that will be covered under the Regulations
- exemptions under section 20(5) of the Animal Health and Welfare (Scotland) Act 2006

The consultation package includes:

- A consultation document setting out the options for action
- A Partial Regulatory Impact Assessment; and
- Draft Regulations

The purpose of the consultation is to seek views on these proposed exemptions. It will, therefore, help us improve the quality of the policy proposals and outcomes through evidence-based input from a range of stakeholders. Comments are welcome on any part of the consultation document. In particular, I would like to hear your views on the key questions set out in each section. We wish to identify expected benefits/risks and the potential costs to industry – especially those costs that might fall on small businesses.

Comments on the proposals should be sent to the address below by **5 January 2007**. I would be grateful if you would clearly indicate in your response which questions or parts of the consultation document you are responding to, as this will aid the analysis of the responses. We need to know how you wish your response to be handled and, in particular, whether you are happy for your response to be made public. Please complete and return the Respondee Information Form (only required if you are providing a response to the consultation document) as this will ensure that we treat your response appropriately. If you ask for your response not to be published, we will regard it as confidential and we will treat it accordingly. All respondents should be aware that the Scottish Executive is subject to

the provisions of the Freedom of Information (Scotland) Act 2002. We would therefore have to consider any request made under the Act for information relating to this consultation exercise.

Responses should be sent to:

Sarah Noble  
Animal Welfare Branch  
Room 350  
Pentland House  
47 Robb's Loan  
Edinburgh  
EH14 1TY

By e-mail to [animal.health@scotland.gsi.gov.uk](mailto:animal.health@scotland.gsi.gov.uk)

By fax to 0131 244 6616

If you have any queries about this consultation please e-mail or fax us as above, or call 0131 244 6482. Please let us know if you think anyone else should be consulted or feel free to pass this consultation on to other interested parties.

If you would like further copies of this consultation, or this document in an alternative format, such as large print, Braille, audiotape or disc, or in a community language please use the contact details above. I expect most respondents will find it easier to send in a written response, but if you would find it easier to respond in some other way (such as by telephone, audiotape or at a meeting) please contact as above to make the necessary arrangements.

This consultation, and all other Scottish Executive consultation exercises, can be viewed at <http://www.scotland.gov.uk/consultations>. You can telephone Freephone 0800 77 1234 to find out the location of your nearest Public Internet Access Point.

The Scottish Executive now has an e-mail alert system for consultations (SEconsult). This system allows stakeholder individuals and organisations to register and receive a weekly e-mail containing details of all new consultations (including web links). SEconsult complements, but in no way replaces SE distribution lists, and is designed to allow stakeholders to keep up-to-date with all SE consultation activity, and therefore be alerted at the earliest opportunity to those of most interest. I would encourage you to register.

Consultation is an essential and important aspect of Scottish Executive working methods. Given the wide-ranging areas of work of the Scottish Executive, there are many varied types of consultation. In general, however, consultation exercises aim to provide opportunities for all those who wish to express their opinions on a proposed area of work, to do so in ways which will inform and enhance that work. While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

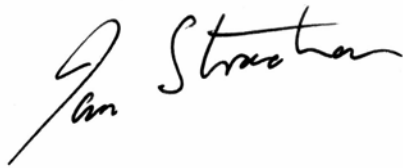
The views and suggestions detailed in consultation responses are analysed and used as part of the decision making process. Depending on the nature of the consultation exercise, the responses received may:

- Indicate the need for policy development or review;
- Inform the development of a particular policy;
- Help decisions to be made between alternative policy proposals; and
- Be used to finalise legislation before it is implemented.

Where respondents have given permission for their response to be made public (via the Respondee Information Form) these will be made available to the public in the Scottish Executive Library by 2 February 2007. All responses, where agreement to publish has been given, will be checked for any potentially defamatory material before being logged in the library or placed on the website. The library is located at Saughton House, (K Spur) Broomhouse Drive, Edinburgh, EH11 3XD and you can make arrangements to view responses by contacting the SE Library on 0131 244 4565. Responses can be copied and sent to you, but a charge may be made for this service.

If you have any comments about how this consultation exercise has been conducted, please send them to the response address above.

Yours faithfully



**Ian W Strachan**  
Head of Animal Welfare Team

## **List of consultees**

This consultation is being sent to over 2,900 parties and individuals including:-

Animal Charities  
Animal Sanctuaries  
Animal Welfare Organisations  
Animal Rights Organisations  
Bird Organisations  
Circus Organisations  
Dog Breed Societies  
Dog Training Clubs  
Exotic animal Organisations  
Fish Organisations  
Horse Welfare Organisations  
Kennels  
Livestock Organisations  
Markets Organisations  
Political Parties  
Racing Organisations  
Rescue Centres  
Scottish Local Authorities  
Scottish Police Forces  
Universities/Colleges  
Voluntary Organisations  
Zoo Organisations

A full list of Organisations/Associations is available on request.

## RESPONDEE INFORMATION FORM

### CONSULTATION ON PROCEDURES TO BE EXEMPTED UNDER SECTION 20(5) OF THE ANIMAL HEALTH AND WELFARE (SCOTLAND) ACT 2006: THE PROHIBITED PROCEDURES (EXEMPTIONS) (SCOTLAND) REGULATIONS 2007

Please complete the details below and return it with your response. This will help ensure we handle your response appropriately. Thank you for your help.

Name: \_\_\_\_\_

Organisation (if applicable) \_\_\_\_\_

Postal Address: \_\_\_\_\_

Post Code: \_\_\_\_\_

1. Are you responding: (please tick one box)
- (a) as an individual  (go to Q2a/b and then Q4)
- (b) **on behalf of** a group/organisation  (go to Q3 and then Q4)

#### INDIVIDUALS

- 2a. Do you agree to your response being made available to the public (in Scottish Executive library and/or on the Scottish Executive website)?

Yes (go to 2b below)

No, not at all  we will treat your response as confidential

- 2b. **Where confidentiality is not requested**, we will make your response available to the public on the following basis (**please tick one** of the following boxes)

Yes, make my response, name and address all available

Yes, make my response available, but not my name or address

Yes, make my response and name available, but not my address

#### ON BEHALF OF GROUPS OR ORGANISATIONS:

- 3 The name and address of your organisation **will be** made available to the public (in the Scottish Executive library and/or on the Scottish Executive website). Are you also content for your **response** to be made available?

Yes

No  We will treat your response as confidential

#### SHARING RESPONSES/FUTURE ENGAGEMENT

- 4 We will share your response internally with other Scottish Executive policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for the Scottish Executive to contact you again in the future in relation to this consultation response?

Yes

No



SCOTTISH EXECUTIVE

**Consultation on Procedures to be  
Exempted under Section 20(5) of the  
Animal Health and Welfare  
(Scotland) Act 2006:**

**The Prohibited Procedures (Exemptions)  
(Scotland) Regulations 2007**

**A Consultation Document issued by  
the Scottish Executive Environment  
and Rural Affairs Department**

**October 2006**

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**THE PROHIBITED PROCEDURES (EXEMPTIONS) (SCOTLAND)  
REGULATIONS 2007**

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**CONSULTATION ON PROCEDURES TO BE EXEMPTED UNDER SECTION 20(5)  
OF THE ANIMAL HEALTH AND WELFARE (SCOTLAND) ACT 2006:**

**THE PROHIBITED PROCEDURES (EXEMPTIONS) (SCOTLAND)  
REGULATIONS 2007**

**Introduction**

1. The Animal Health and Welfare (Scotland) Bill received Royal Assent on 11 July 2006.
2. Section 20 of the Animal Health and Welfare (Scotland) Act 2006 makes it an offence to interfere with the sensitive tissues or the bone structure of an animal unless it is for the medical treatment of that animal. Scottish Ministers can specify in regulations procedures which are exempt from this general prohibition. The regulations can specify the purpose, the conditions and the manner of the procedure which is to be exempt.
3. This consultation paper asks a series of questions about the procedures which we propose can be performed, the purposes for which they are to be permitted and the conditions to be attached to operation of these procedures. In essence, these are the exemptions that will be permitted under section 20(5) of the Act. Under section 20(4), “prohibited procedure” is defined as “the carrying out of a procedure which involves interference with the sensitive tissues or bone structure of the animal”. This section makes it an offence to mutilate a protected animal, or cause a protected animal to be mutilated, or permit the mutilation of an animal if you are responsible for the animal.
4. This consultation outlines:
  - (1) the procedures we propose to exempt from section 20(1) and (2) subject to compliance with any specified conditions;
  - (2) the proposed conditions on procedures such as the purposes for which these procedures may be carried out, the manner in which these procedures may be carried out; and the conditions under which the procedure is performed;
  - (3) the way in which the Regulations will be enforced; and
  - (4) offences.

## Comments

5. Comments are welcomed on the proposals in this consultation. Comments should be sent by 5<sup>th</sup> January 2007, to:

Sarah Noble  
Animal Welfare Branch  
Scottish Executive Environment and Rural Affairs Department  
Room 350, Pentland House  
47 Robb's Loan  
EDINBURGH  
EH14 1TY  
Tel: 0131 244 6482  
Mail: [animal.health@scotland.gsi.gov.uk](mailto:animal.health@scotland.gsi.gov.uk)

**A LIST OF CONSULTEES WHO HAVE BEEN CONSULTED IS ATTACHED AT THE END OF THE DOCUMENT.**

**IF YOU ARE AWARE OF FURTHER INDIVIDUALS, BUSINESSES, ORGANISATIONS WHO SHOULD BE CONSULTED AND WHO ARE NOT INCLUDED ON THE LIST, PLEASE CAN YOU INFORM US, USING THE CONTACT DETAILS ABOVE.**

## BACKGROUND

6. Procedures interfering with the sensitive tissues or bone structure of an animal are currently permitted in a wide range of animal species. Broadly, they can be classified as being undertaken for the following reasons:

- **Control of reproduction** - These include castration, ova transplantation by surgical methods, spaying and vasectomy. Apart from controlling the ability of an animal to reproduce, these procedures may also have a range of welfare benefits for the animals such as a reduction in cancers and infections.
- **Identification** - These include ear notching, clipping and tagging. Identification of some kinds of animal is an EC requirement. It may also be used for other identification procedures. Feral cats which have been caught so that they can be neutered, have their ears tipped to indicate that this procedure has been undertaken so that if re-caught no attempt is made to repeat the procedure.
- **General Management** – These include dehorning, disbudding, beak and tusk trimming as well as tail docking. These procedures serve a range of purposes. Tail docking of sheep is undertaken to avoid fly strike (maggot infestation) of tails that become soiled with faeces. This could otherwise be a serious health and welfare problem. The nose ringing of bulls, heifers and cows is performed to provide additional control of potentially dangerous animals and reduce risks to attendants.

7. These procedures are currently permitted under a range of Acts, Orders and Regulations. These relate to veterinary surgery, the protection of animals and animal welfare. Much of this legislation regulates procedures undertaken on farm livestock:

- Docking and Nicking of Horses Act 1949 (c.70)
- Protection of Animals (Anaesthetics) Act 1954 (c. 46),
- Veterinary Surgery (Exemptions) Order 1962 (SI 1962 No. 2557)
- Protection of Animals (Anaesthetics) Act 1964 (c. 39)
- Veterinary Surgeons Act 1966 (c. 36)
- Veterinary Surgery (Exemptions) Order 1973 (SI 1973 No. 308)
- Docking of Pigs (Use of Anaesthetics) Order 1974 (SI 1974 No. 798)
- The Removal of Antler in Velvet (Anaesthetics) Order 1980 (SI 1980 No. 685)
- The Protection of Animals (Anaesthetics) Act 1954 (Amendment) Order 1982 (SI 1982 No. 1626)
- The Veterinary Surgery (Exemptions) (Amendment) Order 1982 (SI 1982 No. 1627)
- The Welfare of Livestock (Prohibited Operations) Regulations 1982 (SI 1982 No. 1884)
- The Welfare of Livestock (Prohibited Operations) (Amendment) Regulations 1987 (SI 1987 No. 114).
- The Veterinary Surgeons Act 1966 (Schedule 3 Amendment) Order 1988 (SI 1988 No. 526)
- The Welfare of Farmed Animals (Scotland) Regulations 2000 (SSI 2000 No. 442).
- The Welfare of Farmed Animals (Scotland) (Amendment) Regulations 2002 (SSI 2002 No. 334)
- The Welfare of Farmed Animals (Scotland) (Amendment) Regulations 2003 (SSI 2003 No. 488)

- The Protection of Animals (Anaesthetics) (Scotland) Order 2003 (SSI No. 476).

8. Each of the Acts, Orders and Regulations cover one or more aspects of a procedure. Many procedures are governed by a number of pieces of legislation. These determine the age of the animal which is subject to the procedure, the technique to be used and whether an anaesthetic needs to be administered when undertaking the procedure. Some also set specific criteria which the person undertaking the procedure must satisfy.

9. The Veterinary Surgeons Act 1966, stipulates that acts of veterinary surgery can only be undertaken by veterinary surgeons and provides for certain procedures to be undertaken by lay persons. The regulation of the profession of veterinary surgeons is reserved to Westminster. Who may undertake a procedure is therefore not affected by these proposed Regulations. People undertaking permitted procedures on animals must comply with the provisions of the Veterinary Surgeons Act. Where lay persons are currently permitted to perform procedures, if those procedures are permitted under these Regulations, they will still be able to be performed by lay persons.

10. The use of anaesthetics is regulated by the Protection of Animals (Anaesthetics) Acts and related enactments and we do not wish to repeal these. This means that all existing requirements as to the administration of anaesthetic which are currently provided for in existing legislation must be complied with.

### **Scope of the Regulations**

11. The Regulations will apply in Scotland only. Regulations are also being drafted by Defra and the Welsh Assembly for application in England and Wales.

### **Species that will be covered under the Regulations**

12. The Regulations will cover “protected animals” as defined in section 17 of the Animal Health and Welfare (Scotland) Act 2006.

13. As some mutilations are to be permitted in specific species but prohibited in others, we have found it useful to define a number of specific terms which will be used in the Regulations. These are:

- A “bovine animal” is any animal of the Genus *Bos*, *Bison* or *Bubalus*.
- A “domestic fowl” is a domesticated member of the species *Gallus gallus*.
- An “equine animal” is any animal of the Genus *equus*. This includes hybrids.
- A “farmed pig” is a pig which is kept, fattened or bred for the production of food.
- A “farmed sheep” is a sheep kept, fattened or bred for the production of food or wool.
- A “laying hen” is a hen of the species *Gallus gallus* which is kept or to be kept for the production of eggs which are not intended to be used for hatching.
- A “pig” is any porcine animal.
- “Poultry” is any bird of the following species: domestic fowls, turkeys, guinea fowls, ducks, geese, quails, pheasants and partridges.

Question 1: Are the definitions of the specific species of animals outlined in Regulation 2 sufficiently clear? Do other terms need to be clarified?

## **Exemptions under section 20(5) of the Animal Health and Welfare (Scotland) Act 2006**

### **Proposed permitted exemptions under section 20(5)**

14. It is proposed that exemptions under section 20(5) will broadly be for the following purposes:

- Identification;
- Control of reproduction;
- General animal management .

15. A summary of the proposed exemptions is noted in Annex A.

### **1. Procedures for the purposes of identification**

16. Animals are required to be identified for a variety of reasons. Identification of some kinds of animals is an EC requirement. Some require tags or other means of identification to be “distance readable”. A number of methods of identification are currently undertaken.

17. We propose that a number of methods of identification which involve interference with the sensitive tissues of an animal will continue to be permitted subject to any specified conditions or restrictions. These procedures are freeze branding, hot branding, tattooing, ear notching, ear clipping, ear tagging, ear tipping and pit tagging.

#### **1.1 Freeze branding of bovine animals, horses and fish**

18. **Freeze branding** is a method of branding with extremely cold irons which causes white hair to grow instead of the natural hair coat in the branded area. It is a method of permanent identification used in certain breeds of cattle and horses. It is also used as a method of identifying fish, where the scales change colour. This is used to identify fish of particular family lines.

19. It is proposed that freeze branding will be permitted only for bovine animals, horses and fish and only where it is undertaken for identification purposes.

#### **1.2 Hot branding of horses**

20. **Hot branding** is widely used in some European countries as a method of identifying horses. In certain circumstances, such as the identification of wild ponies, it is considered the best and most appropriate means of identification. (hot branding in cattle is prohibited under The Welfare of Livestock (Prohibited Operations) Regulations 1982, and it is proposed that this procedure will continue to be prohibited).

21. It is proposed that hot branding will be permitted for horses only and again only when undertaken for the purposes of identification.

### **1.3 Chemical branding of fish**

22. Chemical branding of fish is undertaken to mark fish, in order to identify fish of particular family lines.

23. We wish to permit the chemical branding of fish for identification purposes only.

### **1.4 Tattooing**

24. **Tattooing** is a means of permanent identification. It is often favoured for goats, as some have the habit of chewing ear tags. It is less commonly undertaken now as a result of the requirement for ear tags for livestock and the increased use of microchips in dogs. The practice requires more patience than tagging and also has more potential (than most current designs of ear tag) for transmission of disease between animals.

25. We intend that this procedure will continue to be permitted for all species of animal (except birds, fish and reptiles) for identification purposes.

### **1.5 Ear notching and clipping**

26. Ear notching has been undertaken in outdoor pigs as ear tattoos and tags are often difficult to read due to dirt. It has largely been replaced by other identification methods such as electronic ear buttons.

27. We propose that ear notching and clipping will be permitted for all species of animal for identification purposes.

### **1.6 Ear tagging**

28. Legislation sets down that a range of farm animals must be identified by ear tagging and specify how this is to be achieved. There are many brands of tag, and these have to be suitable for the breed, size and age of the animal. It is intended that ear tagging will continue to be permitted for identification purposes in all species of animal.

### **1.7 Microchipping**

29. Microchipping is the insertion of a small electronic transponder under the skin of an animal by injection. This remains in the animal throughout its life and is a completely permanent method used to identify animals. All veterinary surgeries, dog pounds and animal rescue homes have an electronic scanner to read microchips and thereby identify the owner of any lost or stray animals. This practice is most commonly used in companion animals such as dogs.

30. Microchipping will be permitted for identification purposes in all species of animal.

### **1.8 Pit tagging of fish**

31. Pit tagging is another means of identifying fish. This involves a small piece of metal being inserted into the head or abdomen of the fish.

32. It is proposed that pit tagging of fish for identification purposes will continue to be permitted.

### **1.9 Ear tipping of feral cats**

33. It is estimated that several hundred feral cats have their ears tipped each year in Scotland. In this procedure, the top 10 mm of the left ear is removed. This is performed as part of a control scheme in which cats are placed back on a managed site where they will be fed. Ear tipping enables neutered feral cats to be identified at a distance so that they do not need to be subjected to the stress of re-trapping, examination, and even unnecessary laparotomy.

34. It is proposed that the tipping of the ears of feral cats for identification purposes will continue to be permitted.

### **1.10 Insertion of subcutaneous tracking device**

35. The insertion of a subcutaneous tracking device is used to track animals. This is a transmitter inserted under the skin which transmits a signal to a receiver to ascertain the location of the animal.

36. It is intended that the insertion of subcutaneous tracking devices will be permitted for identification purposes in relation to fish, feral cats, dogs and any other species of animal not specifically mentioned in the Regulations.

### **1.11 Removal or perforation of parts of the fins, adipose fins or fin rays of fish**

37. The removal of the adipose fin in wild salmon is a common practice among researchers and fishery trust biologists. This is used to aid identification. Under the Animal Health and Welfare (Scotland) Act 2006 a wild salmon becomes a “protected animal” under the Act if it is under the control of man on a permanent or temporary basis or is not living in a wild state. This means that if a wild salmon is captured it is under the control of man.

38. It is intended that this procedure will continue to be permitted. The removal or perforation of parts of the fins, adipose fins or fin rays of fish for identification purposes is listed in the Regulations.

### **1.12 Any other method of identification required by law**

39. This is intended to ensure that any further methods of identification which are required by law are permitted.

### **1.13 Other procedures for identification purposes**

40. We believe that we have included all the procedures used to identify animals that should be permitted under section 20(5) of the Animal Health and Welfare (Scotland) Act 2006.

**Question 2: Are there any other procedures used to identify animals that should be included in the Regulations? If so what should these include?**

Some methods of identification are restricted to certain species. In addition all permitted procedures (not just those carried out for identification purposes) must be carried out in accordance with the Veterinary Surgeons Act (and related Orders), the Protection of Animals (Anaesthetics) Acts, the Animal Health and Welfare Act and under hygienic conditions and in accordance with good practice.

**Question 3: Should additional restrictions be placed on any of the procedures used to identify animals?**

## **2. Procedures for the purposes of controlling reproduction**

41. We propose that a number of procedures which are undertaken to control reproduction in animals will continue to be permitted. These are vasectomy, spaying, ova transplantation by surgical methods and castration. Each will be discussed in turn:

### **2.1 Vasectomy**

42. Vasectomy is a procedure used in farm species, especially sheep, to produce infertile males to stimulate and detect oestrus in females. It is undertaken largely as a management procedure. We wish to keep vasectomy as an exempted procedure under the Regulations.

43. It is proposed that this procedure will continue to be permitted for controlling reproduction in relation to all species of animal.

### **2.2 Spaying**

44. Spaying is the removal of the ovaries from a female animal. In companion animals, it is undertaken to prevent unwanted pregnancies. It reduces the incidence of several serious gynaecological conditions (including uterine infection and uterine and ovarian cancer), and reduces the chance of mammary cancer and uterine infection. It also prevents or reduces the psychological problems associated with daily contact with the continuous presence and smell of the opposite sex of the species in heavily populated areas, decreases the desire of the animal to roam to mate, and, generally increases the lifespan and their quality of life. It also helps to reduce the number of unwanted pets. In companion animals the practice is commonly undertaken and it is estimated that many thousands of animals are spayed each year.

45. We wish to ensure that this procedure can continue to be performed. The Regulations notes that it will be permitted to control reproduction in relation to all species of animal.

## **2.3 Surgical ova transportation**

46. Ova transportation by surgical methods is another means of controlling reproduction. Fertilised embryos are collected from donors of high genetic merit and implanted into recipients of lower genetic value, thereby increasing the number of possible offspring from the donor. It is mostly done in cattle and sheep but can also be performed in horses and other species. It is estimated that each year a few hundred livestock in Scotland undergo ova transplantation by surgical methods.

47. We wish to permit the use of ova transplantation by surgical methods in relation to all species of animals.

## **2.4 Castration – cattle, goats, pigs, sheep, horses and companion animals**

48. Castration is the removal of the testicles in male animals. It is undertaken for a range of welfare reasons. “Codes of recommendation for the welfare of livestock” recommend that stock keepers should consider carefully whether it is necessary to undertake this procedure and suggest that it should be avoided wherever possible.

49. We propose that castration should continue to be permitted to control reproduction in relation to all species of animal. In relation to pigs some restrictions are placed on the procedure. The additional restrictions placed on specific species is noted below:

### **2.4.1 Castration of cattle, sheep and goats**

50. It is proposed that the castration of cattle, sheep and goats will continue to be permitted. There are no additional restrictions placed on the castration of these animals.

### **2.4.2 Castration of pigs**

51. Few pigs are castrated in Scotland or throughout the UK, compared to around 30 years ago, when nearly all male pigs were castrated in order to avoid meat quality problems and to fulfil subsidy requirements. “Codes of recommendations for the welfare of livestock: pigs” advise that male pigs may be castrated provided the means employed do not involve the tearing of tissues.

52. There will be three restrictions placed on the castration of pigs:

- It may only be performed to control reproduction;
- It may only be performed by means which do not involve the tearing of tissues;
- If it is being undertaken by a person other than a veterinary surgeon, then that person must be trained in accordance with the Welfare of Farmed Animals (Scotland) Regulations 2000.

### **2.4.3 Castration of horses**

53. Castration is undertaken in horses to avoid unwanted breeding.

54. It is not proposed that there will be any additional specific restrictions placed on the castration of horses.

#### **2.4.4 Castration of companion animals and other animals which have not been specified**

55. The procedure of castration will continue to be permitted to control reproduction in relation to all species of animal.

#### **2.4.5 Further control of reproduction procedures**

56. We believe that we have included all the mutilations covering the control of reproduction that should be permitted under section 20(5) of the Animal Health and Welfare (Scotland) Act 2006.

**Question 4: Are there any other procedures that control reproduction which should be included in the Regulations?**

57. We have included some restrictions on how castration of pigs can be performed. These are noted in Schedule 2 to the Regulations.

**Question 5: Do you agree with the additional restrictions that are placed on the castration of pigs?**

### **3. Other procedures for animal management purposes**

58. We propose that a range of other procedures for general animal management purposes be permitted under section 20(5) of the Animal Health and Welfare (Scotland) Act 2006. These procedures are antler removal, dehorning, disbudding, desnooding, dubbing, ringing, tusk trimming, beak trimming, tooth cutting, laparoscopy, removal of fish scales, wing pinioning, supernumerary teat removal, toe cutting/detoeing, dew claw removal and tail docking. Some of these procedures can only be undertaken in specific species of animals, and these have been stated alongside the procedure.

#### **3.1 Antler removal in deer**

59. Schedule 7 to the Regulations notes that antler removal will continue to be permitted in deer. This procedure will apply to all deer

60. It is a condition that this procedure is only performed where the velvet is frayed and the greater part of it is shed.

#### **3.2 Dehorning of adult cattle, sheep and goats**

61. Dehorning involves cutting or sawing horn and the other sensitive tissues which produce horn (as distinct from horn shortening which involves cutting insensitive horn only) under local anaesthetic. It is undertaken to prevent damage to handlers and other animals particularly under conditions of intensive or semi-intensive husbandry. For cattle, "Codes of recommendations for the welfare of livestock: cattle", recommend that it should only be

undertaken if it is necessary for the herd's welfare, and it should not be a routine procedure, as disbudding at an early stage to prevent horn growth is preferable.

62. The Regulations provide that the dehorning of bovine animals, sheep, and goats will continue to be able to be performed for general animal management purposes.

### **3.3 Disbudding of sheep, goats and calves**

63. Disbudding is the removal of the horn buds before any horn material can be seen. It involves burning the horns buds using a heated iron, under local anaesthetic. It is undertaken in a number of species – sheep, goats and cattle – which grow horns. In cattle, it is considered to be preferable to dehorning as it is less stressful to the animal.

64. It is proposed that disbudding will continue to be permitted in goats, sheep and bovine animals for general animal management purposes.

### **3.4 Desnooding of turkeys**

65. Desnooding takes place in male turkeys. The snood is the part of the turkey's wattle arising from the forehead and lying over the upper beak. The removal of the snood is undertaken to prevent damage by frostbite or fighting.

66. We intend that the practice of desnooding turkeys for general animal management purposes will continue to be permitted as described in Schedule 3 and subject to compliance with the specified conditions. The conditions are that desnooding may only be performed by manual pinching out or by means of a suitable instrument.

### **3.5 Dubbing of poultry, domestic fowl and turkeys**

67. Certain breeds of domestic fowl develop very large combs. Dubbing is the removal of all, or part, of the male comb. The origins of this practice date back many years. It was first carried out to avoid damage to the comb by other birds, house fittings or from frostbite in open, cold environments.

68. We propose that the practice of dubbing should continue in domestic fowl, i.e. a domesticated member of the species *Gallus gallus* for general animal management purposes. Schedule 3 to the Regulations provides that the procedure must be performed by means of a suitable instrument.

### **3.6 Nose ringing of bovine animals**

69. Ringing in bovine animals is performed to assist in the control of potentially dangerous animals and to reduce risks to attendants. The ring is inserted into the nasal septum.

70. We intend that this practice will continue to be permitted in bovine animals for general animal management purposes (Schedule 1 to the Regulations). There are no specific additional restrictions placed on this procedure.

### **3.7 Nose ringing of pigs**

71. Ringing of pigs is conducted to reduce the damage they would otherwise cause out-of-doors by rooting up the soil with their snouts.

72. It is proposed that the nose ringing of pigs will continue to be able to be performed and this is provided for in Schedule 2 to the Regulations. It is proposed that the procedure should not be carried out if the pig is intended to be kept continuously in an indoor husbandry system. In addition, if the person who is performing this procedure is not a veterinary surgeon, then they must be trained in accordance with the Welfare of Farmed Animals (Scotland) Regulations 2000.

### **3.8 Tusk trimming of pigs**

73. Tusk trimming of boars is carried out to minimise the risk of injury to other animals and personnel handling the boar.

74. We intend that this practice will continue to be permitted. However, it is proposed that the procedure may only be performed in order to prevent injuries to other animals or for safety reasons. In addition, if the person who is performing this procedure is not a veterinary surgeon, then they must be trained in accordance with the Welfare of Farmed Animals (Scotland) Regulations 2000.

### **3.9 Beak trimming of poultry**

75. Beak trimming or debeaking is undertaken to reduce the tendency for birds to feather-peck and cannibalism. In some species of birds such as turkeys, the consultation paper on “Codes of recommendations on the welfare of livestock: turkeys” suggests that consideration should be given to environmental enrichment as a means of avoiding the necessity for beak trimming.

76. We propose that this procedure will remain permitted in poultry, defined as, domestic fowls, turkeys, guinea fowls, ducks, geese, quails, pheasants and partridges.

77. There are a number of restrictions placed on this procedure, detailed in Schedule 3 to the Regulations. It may only be performed by means of a suitable instrument and it shall only be permissible to remove up to a one third part of both the upper and lower beaks measured from the tip towards the entrance to the nostrils if carried out as a single procedure or a one third part of the upper beak only measured as above. In either case any subsequent haemorrhage from the beak must be arrested by cauterization.

78. The beak trimming of laying hens may only be performed on birds which are aged 10 days or younger which are kept in flocks of 350 or more birds and may only be performed where a veterinary surgeon considers that it is necessary in order to prevent feather pecking or cannibalism and only after measures to improve the environmental conditions have been taken. This will only apply until 1 January 2011 when beak trimming of laying hens will be banned by Directive 99/74 (this is implemented in The Welfare of Farmed Animals (Scotland) Regulations 2000).

### **3.10 Tooth cutting of pigs - uniform reduction of the corner teeth**

79. The sharp temporary tusks and corner incisors of young pigs can damage the sows' teats and give rise to subsequent infection. The pain caused by suckling may also lead to rejection of the piglets by the dam. Tooth clipping is the uniform reduction of corner teeth in piglets by grinding or clipping. "Codes of recommendations for the welfare of livestock: pigs" suggest that tooth clipping/grinding of pigs should not be carried out routinely, but only where there is evidence that injuries to sows' teats or to other pigs' ears or tails have occurred. No tooth reduction may be carried out unless other measures to improve environmental conditions or management systems have been taken in order to prevent tail biting and other vices; it should only be undertaken as a last resort. Where it is required, it may not always be necessary to treat the whole litter.

80. We propose that the tooth cutting of pigs will be permitted. There will be restrictions placed on the procedure. These are noted in Schedule 2 to the Regulations. There are six conditions which must be met:

- (1) It may only be performed where the pig is a farmed pig which is kept on agricultural land;
- (2) the pig is less than eight days of age;
- (3) there is evidence of injury to sows' teats or to the ears or tails of other pigs;
- (4), other measures to improve environmental conditions or management systems have been taken in order to prevent tail biting and other vices;
- (5) the reduction is performed by grinding or clipping leaving an intact smooth surface; and
- (6) if the person who is performing this procedure is not a veterinary surgeon, then they must be trained in accordance with the Welfare of Farmed Animals (Scotland) Regulations 2000.

### **3.11 Laparoscopy – birds and reptiles**

81. Laparoscopy is a method used to examine the interior of the abdomen, pelvic cavity and other parts of the body, and as such constitutes use for medical reasons, and therefore would not be exempted under section 20. However, it can be used for sexing birds and reptiles, and it is for this purpose that this procedure needs to be exempted under these regulations.

82. It is proposed that laparoscopy will continue to be permitted in relation to birds and reptiles.

### **3.12 Removal of fish scales**

83. Fish scales are removed from wild salmon by researchers and fishery trust biologists to glean biological information. Under the Animal Health and Welfare (Scotland) Act 2006 a wild salmon becomes a "protected animal" under the Act if it is under the control of man on a permanent or temporary basis or is not living in a wild state. This means that if a wild salmon is captured it is under the control of man.

84. It is proposed that the removal of fish scales will continue to be permitted. It is intended that this procedure may only be performed for age determination or stock management purposes (Schedule 8 to the Regulations).

### **3.13 Wing pinioning of birds other than poultry**

85. Wing pinioning is a permanent way of stopping birds flying which involves the removal at no more than two days after hatching, of the metacarpal and phalanges on one wing, which is the area where the primary feathers grow. It has strong welfare, management, conservation and restraint of non-native species arguments in its favour. For example, it prevents non-native water birds escaping into the British countryside. It is considered to be a humane, effective and safe method of controlling captive water birds, and wildfowl to enable them to be exhibited. It is a common practice in zoos throughout the world.

86. We intend that wing pinioning will be permitted (Schedule 3 to the Regulations) for all species of birds other than farmed poultry. These birds must not be kept for the production of food. The wing pinioning of farmed poultry is currently prohibited, and we consider that this prohibition should continue.

### **3.14 Supernumerary teat removal in bovine animals**

87. This is the removal of additional teats in cattle. They are routinely removed in young dairy calves. Although partly undertaken for cosmetic reasons, their removal is also seen as a health issue as misplaced teats may drain a portion of the udder and mastitis can develop in udder tissue associated with them.

88. It is proposed that supernumerary teat removal in bovine animals will continue to be permitted for animal health (Schedule 1 to the Regulations).

### **3.15 Toe cutting/detoeing of poultry**

89. Toe cutting is undertaken to avoid injury to hens and turkeys during mating. Under this procedure, the last joint of the inside toes of the male breeding birds is removed.

90. We propose that this procedure will continue to be permitted for general management purposes but only in relation to poultry (Schedule 3 to the Regulations). "Poultry" is defined as domestic fowls, turkeys, guinea fowls, ducks, geese, quails, pheasants and partridges.

### **3.16 Dew claw removal in dogs**

91. In certain breeds of dogs, the dew claws, the rudimentary first toe, protrude from the limb. These are often damaged and the nail can grow into the skin causing considerable inflammation. Some breeds of dogs can easily catch dew claws on objects and surfaces because they hang on the side of their paws. Damage to claws can be quite serious. The removal of dew claws is generally undertaken before the dog's eyes are open.

92. We propose that this procedure will continue to be permitted in dogs (Schedule 10 to the Regulations).

### **3.17 Tail docking of pigs**

93. Tail docking of pigs is done to prevent the animals biting one another's tails which can then become infected. Routine tail docking has been banned for a number of years under the Welfare of Farmed Animals (Scotland) Regulations 2000. "Codes of recommendation for the welfare of livestock: pigs" advise that tail docking in pigs should not be routinely performed. It recommends that this procedure may only be carried out where there is evidence that tail injuries have occurred and where other measures to improve environmental conditions or management systems have been taken in order to prevent tail biting, but have proved to be unsuccessful.

94. We intend that the procedure will continue to be permitted (Schedule 2). We also propose that there will be a number of conditions placed on the undertaking of this procedure. It may only be performed where:

- (1) the procedure is performed by the quick and complete severance of the part of the tail to be removed;
- (2) the pig is a farmed pig which is kept on agricultural land;
- (3) there is evidence of injury to sows' teats or to the ears or tails of other pigs;
- (4) other measures to improve environmental conditions or management systems have been taken in order to prevent tail biting;
- (5) if the person who is performing this procedure is not a veterinary surgeon, then they must be trained in accordance with the Welfare of Farmed Animals (Scotland) Regulations 2000, and
- (6) if the pig is eight or more days old the procedure may only be carried out if it is performed under anaesthetic and additional prolonged analgesia.

### **3.18 Tail docking of sheep**

95. Tail docking in sheep is undertaken to avoid fly strike (maggot infestation) of tails that become soiled with faeces, which could otherwise be a serious health and welfare problem. It reduces the amount of wool that is available to be soiled, and thus reduces the risk of fly strike. According to "Codes of recommendations for the welfare of livestock: sheep", tail docking of sheep should be performed only if failure to do so would lead to subsequent welfare problems because of dirty tails and potential fly strike. The tails of hill sheep are often undocked where fly strike is less of a risk.

96. We propose that the tail docking of sheep will continue to be permitted (Schedule 4 to the Regulations). A number of conditions will be placed on the undertaking of this procedure. It may only be performed where the sheep is a farmed sheep which is kept on agricultural land and there is sufficient tail retained to cover the vulva (for female sheep) or the anus (in a male sheep).

### **3.19 Tail docking of dogs**

97. The tail docking of dogs has been an issue which has received much attention as the Animal Health and Welfare (Scotland) Bill passed through the Scottish Parliament. During Stage 3 of the Bill, on 31 May 2006, the Scottish Parliament voted overwhelmingly not to accept an amendment to the Bill which would have exempted the tail docking of working

dogs from section 20(1) and (2). This means that tail docking can only be undertaken as a result of tail damage or a disease or if specifically permitted in Regulations made under section 20(5).

98. During Stage 3 of the Bill, Rhona Brankin, Deputy Minister for Environment and Rural Development stated that she did not believe that an exemption should be made for working dogs and that the case for an exemption had not been made. The draft Regulations do not therefore propose to exempt the tail docking of any dog including working dogs. However, the Deputy Minister did state that if people believe that there should be an exemption for working dogs they would have the opportunity to present evidence to support their case in this consultation.

### **3.20 Other procedures**

99. We believe that we have included all the procedures for animal management purposes that should be permitted under section 20(5) of the Animal Health and Welfare (Scotland) Act 2006.

**Question 6: Are there any other procedures for management purposes which should be included in the Regulations?**

**Question 7: Do you believe that the Regulations should be amended to permit the tail docking of working dogs? If so what veterinary evidence do you have to support your case. If not, why not?**

### **Timescale for the Regulations to come into force**

100. It is intended that the exemptions will come into force at the same time that section 20, which bans mutilations, comes into force. This will be on a specified date which will be appointed by Scottish Ministers.

### **Enforcement**

101. The enforcement of the Regulations will be in accordance with the provisions of the Animal Health and Welfare (Scotland) Act 2006.

### **Penalties**

102. Section 46 of the Animal Health and Welfare (Scotland) Act 2006 stipulates the penalties for offences under Part 2 of the Act. It is provided that a person who commits an offence under Part 2 is liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale or to both. The carrying out of a procedure which involves the interference with the sensitive tissues or bone structure of an animal which is not exempted is an offence under the Act. The carrying out of a procedure which is exempted under these Regulations without complying with any specified conditions is also an offence under the Act.

## Summary of questions

<b>Question number</b>	<b>Page number</b>	<b>Question</b>
1	7	Are the definitions of the specific species of animals outlined in regulation 2 sufficiently clear? Do other terms need to be clarified?
2	11	Are there any other procedures used to identify animals that should be included in the regulations? If so, what should these include?
3	11	Should additional restrictions be placed on any of the procedures used to identify animals?
4	13	Are there any other procedures that control reproduction which should be included in the Regulations?
5	13	Do you agree with the additional restrictions that are placed on the castration of pigs?
6	19	Are there any other procedures for management purposes which should be included in the Regulations?
7	19	Do you believe that the Regulations should be amended to permit the tail docking of working dogs? If so, what veterinary evidence do you have to support your case? If not, why not?

## **Partial Regulatory Impact Assessment: Consultation on procedures to be exempted under the Animal Health and Welfare (Scotland) Act 2006**

### **Introduction**

1. This Partial Regulatory Impact Assessment aims to provide information on the options considered in relation to The Prohibited Procedures (Exemptions) (Scotland) Regulations 2007, made under section 20(5) of the Animal Health and Welfare (Scotland) Act 2006. These regulations specify procedures which are exempted from the offences under section 20(1) and (2) of the Animal Health and Welfare (Scotland) Act 2006. We would welcome your comments on the assumptions made here, in order to revise this draft RIA and improve its accuracy.

### **Title of proposal**

2. The proposal is for a Scottish Statutory Instrument (SSI) with the title: The Prohibited Procedures (Exemptions) (Scotland) Regulations 2007.

### **Purpose and intended effect**

#### **Objectives**

3. The Animal Health and Welfare (Scotland) Act 2006 received Royal Assent on 12 July 2006.

4. The welfare provisions modernise and bring together in one statute some 16 Acts relating to the welfare of captive and domestic animals in Scotland. The Act will protect from cruelty and also promote the welfare of vertebrate animals which are commonly domesticated in the British Islands, or are under the control of man whether on a permanent or temporary basis, or not living in a wild state.

5. The Act is largely an enabling measure. It sets out the broad fundamental principles of animal welfare and allows specific provisions to be made in secondary legislation. This approach will allow its provisions to be kept up to date and in line with developments in animal welfare and the sciences. This will enable the provision to be easily revised, amended, and kept up to date. Further, it will also allow the Scottish Executive to respond to changes more quickly than it can do at present.

6. This set of regulations, made under section 20(5) of the Act, allow a range of procedures which involve interference with the sensitive tissues or bone structure of an animal to be permitted, as these would otherwise be prohibited under section 20(1) and (2) of the Act.

7. The SSI is subject to the draft affirmative procedure in the Scottish Parliament. This means that it must be approved by a motion of the Scottish Parliament before it can come into force.

8. We anticipate that the SSI will come into force in March 2007.

## **Devolution**

9. The Regulations apply to Scotland only. England and Wales are making separate, parallel legislation.

## **Background**

10. The Scottish Ministers can make regulations under section 20(5) of the Animal Health and Welfare (Scotland) Act 2006 to allow exemptions to be made to the general prohibition on procedures which involve the interference with the sensitive tissue or the bone structure of an animal unless it is for medical reasons. The provisions in the regulations will allow current practices, many of which are regulated in existing Acts, Orders and Regulations, to continue to be permitted.

## **Rationale for government intervention**

12. Section 20(1) and (2) of the Animal Health and Welfare (Scotland) Act 2006 would prohibit a range of procedures, which are referred to as “mutilations”, from being undertaken. We do not want to ban a number of procedures which are currently permitted as this would create severe welfare problems in these animals.

13. We therefore want a range of practices to continue to be permitted. In order that they can be permitted, the Scottish Executive is required to make regulations which stipulate the procedures which are permitted and the purposes for which the procedure may be carried out; the omission of a procedure from the Regulations, unless it is undertaken for the purpose of medical treatment of an animal, means that it cannot be undertaken. The proposed permitted procedures and purposes are set out in the Regulations.

14. In stipulating these exemptions, we recognise that a number of them should also be conducted only in a certain manner, or in certain circumstances. Such additional conditions are noted in the Regulations.

## **Consultation**

### **Within Government**

15. Consultation at official level has been ongoing throughout the drafting of the SSI and draft RIA. In particular, this has been with the State Veterinary Service (SVS) and the Department for Environment, Food and Rural Affairs (Defra) which is introducing its own regulations under the Animal Welfare Act 2006.

### **Public consultation**

16. A number of consultations have already taken place which have discussed aspects outlined in the draft Regulations. A full 12 week consultation was undertaken on earlier proposals relating to the tail docking of dogs in a consultation paper, ‘Proposals to Revise Existing Animal Welfare Legislation’, issued on 31 March 2004. The subject of tail docking of dogs was discussed in the Scottish Parliament at considerable length.

17. The scope of section 20 of the Draft Animal Health and Welfare (Scotland) Bill was discussed in a further consultation paper, ‘Draft Animal Health and Welfare (Scotland) Bill Consultation’ issued on 16 May 2005. This consultation period extended until 4 July 2005. A total of 2,245 copies of the consultation document were issued and distributed during the consultation period. A total of 116 responses were received. A total of 4 consultation meetings were held during the consultation period. Responses to this consultation were publicised and distributed on 14 September 2005, using the same methods that had been used for the earlier consultation. The document can be viewed at:  
<http://www.scotland.gov.uk/Publications/2005/09/14155410/54128>.

18. In addition to these, an “example” of the Regulations which showed the type of proposals that could be introduced under the then Animal Health and Welfare (Scotland) Bill, was issued to the Environment and Rural Development Committee and the Subordinate Legislation Committee of the Scottish Parliament in March 2006. This was issued to potential consultees for information. They were informed that a formal consultation would take place later in 2006.

## **Options**

### **The two options are:**

19. **Option 1:** Not to make exemptions to the prohibition on procedures which interfere with the sensitive tissues or bone structure of an animal under section 20 of the Animal Health and Welfare (Scotland) Act 2006.

20. **Option 2:** Make exemptions under section 20(5) of the Animal Health and Welfare (Scotland) Act 2006 in the Prohibited Procedures (Exemptions) (Scotland) Regulations 2007 which will enable a range of procedures to be undertaken for welfare related purposes.

## **Sectors and groups affected**

21. The Regulations will affect a range of sectors which are involved with animals. These will primarily be individuals and businesses that own, manage and keep animals, especially livestock and companion animals. The Regulations will mainly affect livestock farmers, especially those that raise bovine animals, pigs, sheep, goats and deer.

## **Analysis of costs and benefits**

### **Benefits**

22. **Option 1:** No benefits. This would prohibit many practices that are currently undertaken for animal welfare related reasons in livestock and companion animals. This would have a detrimental impact on many aspects of their welfare, especially in the areas of reproduction, identification, and management. It would be undesirable to ban practices which are currently permitted and where there is evidence that they are necessary to ensure or promote welfare for specific species of animals. There would be much criticism if these practices were to be prohibited. It would be difficult, and in some cases impossible, to ensure the welfare of specific species, especially where these procedures are used after alternative methods have been tried and have not been found to remedy a welfare problem.

Furthermore, there would be significant economic consequences if these practices were prohibited.

**23. Option 2:** This option will bring a number of benefits. These are:

- It will ensure that specified existing practices which involve the interference with the sensitive tissues or bone structure of an animal can continue to take place where appropriate.
- It will help to ensure that animal welfare standards are maintained. This will apply to individual animals subject to a procedure and others with which they come into contact.
- Where necessary, it will ensure that animal keepers can continue to comply with EU regulations on animal identification and animal traceability.
- In certain cases it will help to enhance handler safety.
- It will ensure that appropriate restrictions are placed on the purpose for which a mutilation can be carried out, the manner in which it is undertaken and the conditions in which the procedure must be conducted.
- It will make the regulations on mutilations easier to understand. In turn, this will make it easier for businesses to comply with them. It will also make it easier for enforcement organisations to enforce its provisions.

## **Costs**

### **Option 1**

#### **Costs to businesses**

**24. Option 1:** There will be an increase in animal welfare problems among a wide range of animals, especially livestock. This will result in poorer animal welfare. There will also be higher costs of veterinary care. Businesses will find it impossible to comply with a range of EU regulations relating to animal identification, as well as other regulations which require that an animal should be marked. Businesses which deal with animals that have the potential to injure their handlers would have to find alternative means to safeguard their workers. Businesses which control the reproduction of animals would have to find alternative ways of doing this, which could involve keeping animals in separate premises.

#### **Costs to competent authorities**

25. As a wide range of current practices would no longer be practised, and as they are found necessary, it is likely that they would continue to be undertaken. This would mean that there would be increased costs faced by the competent authorities. There would also be an increase in the number of court cases initiated.

## **Option 2:**

### **Costs to businesses**

26. There will be no change in costs to businesses or individuals who are undertaking all the procedures. Therefore, the implications of the Regulations are cost neutral.

27. However, should there be a proposed ban on the tail docking of dogs, with an exemption for working dogs, this will have a range of financial impacts. These will primarily affect veterinary surgeons and dog breeders.

28. The impact of the policy will have an effect on the income of veterinary surgeons who currently undertake this practice for non-therapeutic reasons. Precise figures for these numbers of veterinary surgeons are not available. It is thought that vets who carry out this practice attract clients from other practices, increasing their income. We believe that a significant number of vets do not undertake this procedure, and will therefore receive no income from undertaking this practice. There will therefore be no change in their level of income from a ban on tail docking.

29. It is known that vets who undertake this procedure will typically charge about £50 per litter. If a veterinary practice were to dock a litter of puppies each day, then the income to the practice would be £1,000 a month or £12,000 per year. If the number of puppies that are docked is reduced by 5,000 per year, and a litter has an average of 5 puppies, then the total vet fees would be reduced by £50,000.

30. It is estimated that 7,000 dogs are registered each year by Scottish breeders from traditionally docked breeds. In future, most of these dogs would be undocked, with the exception of working dogs (gun and sniffer) employed to work in thick cover or in confined spaces. A rough estimate is that some 5,000 dogs that were previously docked each year would no longer be docked.

31. The proposals will affect breeders of dogs. It has been claimed that an undocked puppy of a traditionally docked breed would be worth less than a docked puppy. If this were true, and assuming the value of each dog was reduced by £50, then the annual loss to Scottish dog breeders would be in the region of £250,000. However, any drop in value would be temporary as the supply of docked puppies would reduce as the ban was enforced.

32. If there was to be an exemption for working dogs, there would be no increase in costs in undertaking this veterinary procedure for working dogs which currently have their tails docked. Should there be a regulation that the veterinary surgeon has to affirm that the procedure has taken place, there will be a small cost required for documentation. It is anticipated that this cost will be included in the cost of docking.

### **Costs to the competent authorities**

33. As the Regulations are allowing for a range of procedures to continue to be undertaken, the Regulations will be cost neutral to the Scottish Executive and to the authorities that will enforce the SSI, i.e. local authorities and the State Veterinary Service.

### **Consultation with small businesses**

34. During the two earlier consultations in 2004 and 2005, a wide range of small businesses, small business organisations and business organisations were consulted. These included a number of businesses that would be directly affected by the proposals. These and other responders did not consider that the proposals would have a disproportionate impact on small businesses.

35. All of these organisations and businesses have been consulted with the specific proposals in the consultation paper (the example Regulations were also sent to them in March 2006).

### **Test run of business forms**

36. There are no statutory business forms introduced by these Regulations.

### **Competition assessment**

37. The Scottish Executive does not consider that the proposals will raise any competition issues. The exemptions made under section 20(5) will not place undue additional burdens on businesses. It is not considered that the markets will be affected by the new Regulations. We are not aware of any firms which have either 10%, 20% or 50% market share. It is not considered that the costs of the Regulations will affect some firms substantially more than others. It is not considered that the Regulations will affect the market structure, changing the number or size of firms. None of the proposals will place higher set-up or ongoing costs for new or potential firms than existing ones. This sector is not characterised by rapid technological change and this will not impact on the way procedures are undertaken. It is not considered that the Regulations will restrict the ability of firms to choose the price, quality, range or location of their products.

38. The Regulations will ensure that mutilations will only be undertaken where the Scottish Ministers have specified that they are permitted in the Regulations. The use of certain mutilations can be justified on the grounds of promoting and ensuring animal welfare.

39. We do not believe that the proposals for the exemptions under section 20(5) of the Animal Health and Welfare (Scotland) Act 2006 will disproportionately affect any key group.

### **Enforcement sanctions and monitoring**

40. As with existing Acts, Regulations and Orders, the new Regulations will continue to be enforced by local authorities, the State Veterinary Service and the police.

41. Local authorities and the SVS will continue to have powers to inspect activities which are subject to regulation.

42. As with existing legislation on mutilations and animal welfare, there are criminal sanctions for offences.

## **Post-implementation review**

43. As the proposals will be contained in secondary legislation, there will be an opportunity to review, and if necessary, update the legislation. It is proposed to review the Regulations five years after they come into force. This review will be undertaken by SEERAD.

44. After responses to this consultation have been received and collated, they will be summarised, omitting those where confidentiality has been requested. This summary will be circulated to consultees and will be made available on the Scottish Executive website. The responses received will be used to review the provisions in the draft Regulations before they are submitted to the Scottish Parliament for approval.

## **Contact**

45. Any queries about this draft RIA should be addressed to:

Sarah Noble  
Animal Welfare Branch  
Scottish Executive Environment and Rural Affairs Department  
Room 350, Pentland House  
47 Robb's Loan  
EDINBURGH  
EH14 1TY  
Telephone: 0131 244 6611  
Email: [animal.health@scotland.gsi.gov.uk](mailto:animal.health@scotland.gsi.gov.uk)

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D R A F T   S C O T T I S H   S T A T U T O R Y   I N S T R U M E N T S

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**2007 No.**

**ANIMALS**

**PREVENTION OF HARM**

**The Prohibited Procedures (Exemptions) (Scotland) Regulations  
2007**

<i>Made</i>	- - - -	2007
<i>Coming into force</i>	- -	2007

The Scottish Ministers, in exercise of the powers conferred by section 20(5)(b) and (c) of the Animal Health and Welfare (Scotland) Act 2006(a) and of all other powers enabling them in that behalf, after consultation in accordance with section 20(6) of that Act, hereby make the following Regulations, a draft of which has, in accordance with section 51(3) of that Act, been laid before and approved by resolution of the Scottish Parliament:

**Citation and commencement**

1. These Regulations may be cited as the Prohibited Procedures (Exemptions) (Scotland) Regulations 2007 and shall come into force on the day after the day on which they are made.

**Interpretation**

2. In these Regulations-

“agricultural land” means land used for agriculture (within the meaning of the Agriculture (Scotland) Act 1948(b)) which is so used for the purposes of a trade or business;

“bovine animal” means any animal of Genus *Bos*, *Bison* or *Bubalus*;

“disbudding” means the removal of the horn bud;

“dock” means the amputation of one or more coccygeal vertebrae of the tail of an animal;

“domestic fowl” means a domesticated member of the species *Gallus gallus*;

“dubbing” means the removal of all or part of the comb of a bird;

“equine animal” means any animal of Genus *Equus* including hybrids;

“exempted procedure” means a procedure which is specified in Schedules 1 to 12 in relation to the particular type of protected animal on which the procedure is performed;

“farmed deer” means deer of any species which are kept on agricultural land enclosed by a deer-proof barrier;

“farmed pig” means a pig kept, fattened or bred for the production of food;

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(a) 2006 asp 11  
(b) 1948 c. 45

“farmed sheep” means a sheep kept, fattened or bred for the production of food or wool;

“laying hen” means a hen of the species *Gallus gallus* which is kept or to be kept for the production of eggs not intended for hatching;

“pinioning” means the disabling of the wing of a bird by the removal of the metacarpal bone and phalanges of one wing of that bird;

“poultry” means any bird reared or kept in captivity for the production of meat or eggs for consumption, or of other products, for restocking supplies of game or for the purpose of any breeding programme for the production of such categories of birds;

“specified condition” means a condition specified in Schedules 1 to 12 in relation to the performance of the exempted procedure on that type of animal;

“specified purpose” means a purpose specified in Schedules 1 to 12 for which an exempted procedure may be performed on that type of animal; and

“veterinary surgeon” means any person who is qualified to carry out acts of veterinary surgery as defined by the Veterinary Surgeons Act 1966(a).

### **Exempted procedures**

**3.** Section 20 of the Animal Health and Welfare (Scotland) Act 2006 does not apply where-

- (a) the procedure is an exempted procedure carried out for a specified purpose;
- (b) any specified condition is complied with; and
- (c) the procedure is carried out in accordance with good practice.

### **Revocations**

**4.** The instruments specified in column 1 of Schedule 13 to these Regulations are revoked to the extent set out in the corresponding entry in column 3 of that Schedule.

A member of the Scottish Executive

St Andrew's House,  
Edinburgh

2007

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(a) 1966 c.36

**SCHEDULE 1**

regulation 2

## Bovine animals

<b>Procedure</b>	<b>Purpose</b>	<b>Condition</b>
Freeze branding	Identification	
Tattooing	Identification	
Ear tagging	Identification	
Ear notching	Identification	
Micro chipping	Identification	
Any other method of identification required by law	Identification	
Vasectomy	Controlling reproduction or general animal management	
Castration	Controlling reproduction or general animal management	
Spaying	Controlling reproduction or general animal management	
Embryo transfer	Controlling reproduction or general animal management	
Nose ringing	Handler safety or herd welfare	
Dehorning	Handler safety or herd welfare	
Disbudding	Handler safety or herd welfare	
Supernumerary teat removal	Animal health	

**SCHEDULE 2**

regulation 2

## Pigs

<b>Procedure</b>	<b>Purpose</b>	<b>Condition</b>
Tattooing	Identification	
Ear tagging	Identification	
Ear notching	Identification	
Micro chipping	Identification	
Any other method of identification required by law	Identification	
Vasectomy	Controlling reproduction or general animal management	
Spaying	Controlling reproduction or general animal management	
Castration	Controlling reproduction or general animal management	May only be performed by means which do not involve the tearing of tissues. Where the person performing the procedure is not a veterinary surgeon that person must be trained in accordance with the Welfare of Farmed Animals (Scotland) Regulations 2000(a).
Embryo transfer	Controlling reproduction or general animal management	

(a) SSI 2000/442 amended by SSI 2002/334 and 2003/448

Tusk trimming	Handler safety or herd welfare	Where the person performing the procedure is not a veterinary surgeon that person must be trained in accordance with the Welfare of Farmed Animals (Scotland) Regulations 2000.
Docking	Handler safety or herd welfare	May only be performed where:- (a) the pig is a farmed pig kept on agricultural land; (b) there is evidence of injury to sows' teats or to the ears or tails of other pigs; (c) other measures to improve environmental conditions or management systems have been taken in order to prevent tail biting; and (d) the procedure is performed by the quick and complete severance of the part of the tail to be removed. Where the person performing the procedure is not a veterinary surgeon that person must be trained in accordance with the Welfare of Farmed Animals (Scotland) Regulations 2000.
Uniform reduction of the corner teeth	Herd welfare	May only be performed where:- (a) the pig is a farmed pig kept on agricultural land; (b) the pig is less than eight days old; (c) there is evidence of injury to sows' teats or to the ears or tails of other pigs; (d) other measures to improve environmental conditions or management systems have been taken in order to prevent tail biting; and (e) the reduction is performed by grinding or clipping leaving an intact smooth surface. Where the person performing the procedure is not a veterinary surgeon that person must be trained in accordance with the Welfare of Farmed Animals (Scotland) Regulations 2000.
Nose ringing	General animal management	May only be performed on a pig which is not intended to be kept continuously in an indoor

		<p>husbandry system.</p> <p>Where the person performing the procedure is not a veterinary surgeon that person must be trained in accordance with the Welfare of Farmed Animals (Scotland) Regulations 2000.</p>
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**SCHEDULE 3**

regulation 2

Birds

<b>Procedure</b>	<b>Purpose</b>	<b>Condition</b>
Micro chipping	Identification	
Any other method of identification required by law	Identification	
Beak trimming of poultry	Flock welfare	<p>May only be performed -</p> <p>(a) if carried out as a single procedure, provided no more than a one third part of both the upper and lower beaks, measured from the tip towards the entrance to the nostrils, is removed; or</p> <p>(b) provided no more than a one third part of the upper beak only, measured as above, is removed.</p> <p>In either case any subsequent haemorrhage from the beak must be arrested by cauterization.</p> <p>Beak trimming may only be performed where a veterinary surgeon considers the beak trimming to be necessary to prevent feather pecking or cannibalism and measures to improve the environmental conditions have been taken.</p> <p>Beak trimming of laying hens may only be performed on birds aged 10 days or less kept in flocks of 350 or more birds.</p> <p>Beak trimming of laying hens may only be performed until 31<sup>st</sup> December 2010.</p>
De-snooding of turkeys	General animal management	
Cutting of the toes of poultry	General animal management	
Dubbing of domestic fowls	General animal management	
Pinioning of any bird other	General animal management	

than poultry		
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**SCHEDULE 4**

regulation 2

Sheep

<b>Procedure</b>	<b>Purpose</b>	<b>Condition</b>
Tattooing	Identification	
Ear tagging	Identification	
Ear notching	Identification	
Micro chipping	Identification	
Any other method of identification required by law	Identification	
Vasectomy	Controlling reproduction or general animal management	
Castration	Controlling reproduction or general animal management	
Spaying	Controlling reproduction or general animal management	
Embryo transfer	Controlling reproduction or general animal management	
Dehorning	Handler safety or flock welfare	
Disbudding	Handler safety or flock welfare	
Docking	Animal health	May only be performed where- (a) the sheep is a farmed sheep kept on agricultural land; and (b) sufficient tail is retained to cover the vulva in the case of female sheep and the anus in the case of male sheep.

**SCHEDULE 5**

regulation 2

Goats

<b>Procedure</b>	<b>Purpose</b>	<b>Condition</b>
Tattooing	Identification	
Ear tagging	Identification	
Ear notching	Identification	
Micro chipping	Identification	
Any other method of identification required by law	Identification	
Vasectomy	Controlling reproduction or for general animal management	
Castration	Controlling reproduction or for general animal management	
Spaying	Controlling reproduction or for general animal management	
Embryo transfer	Controlling reproduction or for general animal management	
Dehorning	Handler safety or herd welfare	
Disbudding	Handler safety or herd welfare	

**SCHEDULE 6**

regulation 2

## Equine Animals

<b>Procedure</b>	<b>Purpose</b>	<b>Condition</b>
Freeze branding	Identification	
Hot branding	Identification	
Tattooing	Identification	
Micro chipping	Identification	
Any other method of identification required by law	Identification	
Vasectomy	Controlling reproduction or general animal management	
Castration	Controlling reproduction or general animal management	
Spaying	Controlling reproduction or general animal management	
Embryo transfer	Controlling reproduction or general animal management	

**SCHEDULE 7**

regulation 2

## Deer

<b>Procedure</b>	<b>Purpose</b>	<b>Condition</b>
Tattooing	Identification	
Ear tagging	Identification	
Ear notching	Identification	
Micro chipping	Identification	
Any other method required by law	Identification	
Vasectomy	Controlling reproduction or general animal management	
Castration	Controlling reproduction or general animal management	
Spaying	Controlling reproduction or general animal management	
Embryo transfer	Controlling reproduction or general animal management	
Antler removal	Handler safety or herd welfare	May only be performed where- (a) the deer is a farmed deer; and (b) the velvet is frayed and the greater part of it shed.

**SCHEDULE 8**

regulation 2

## Feral cats

<b>Procedure</b>	<b>Purpose</b>	<b>Condition</b>
Ear tipping	Identification	

Insertion of subcutaneous tracking device	Identification	
Micro chipping	Identification	
Tattooing	Identification	
Any other method of identification required by law	Identification	
Vasectomy	Controlling reproduction or general animal management	
Castration	Controlling reproduction or general animal management	
Spaying	Controlling reproduction or general animal management	

**SCHEDULE 9**

regulation 2

Dogs

<b>Procedure</b>	<b>Purpose</b>	<b>Condition</b>
Insertion of subcutaneous tracking device	Identification	
Micro chipping	Identification	
Tattooing	Identification	
Any other method of identification required by law	Identification	
Vasectomy	Controlling reproduction or general animal management	
Castration	Controlling reproduction or general animal management	
Spaying	Controlling reproduction or general animal management	
Embryo transfer	Controlling reproduction or general animal management	
Amputation of dew claws	General animal management	

**SCHEDULE 10**

regulation 2

Fish

<b>Procedure</b>	<b>Purpose</b>	<b>Condition</b>
Chemical branding	Identification	
Freeze branding	Identification	
Insertion of subcutaneous tracking device	Identification	
Pit tagging	Identification	
Micro chipping	Identification	
Removal or perforation of parts of the fins, adipose fins or fin rays	Identification	
Any other method of identification required by law	Identification	
Removal of fish scales	Age determination or stock management	

**SCHEDULE 11**

regulation 2

## Reptiles

<b>Procedure</b>	<b>Purpose</b>	<b>Condition</b>
Micro chipping	Identification	
Laparoscopy	General animal management	

**SCHEDULE 12**

regulation 2

## Any other kind of animal

<b>Procedure</b>	<b>Purpose</b>	<b>Condition</b>
Insertion of subcutaneous tracking device	Identification	
Micro chipping	Identification	
Tattooing	Identification	
Any other method of identification required by law	Identification	
Vasectomy	Controlling reproduction	
Castration	Controlling reproduction	
Spaying	Controlling reproduction	
Embryo transfer	Controlling reproduction	

**SCHEDULE 13**

regulation 4

Column 1 Legislation revoked	Column 2 References	Column 3 Extent of revocations
The Docking of Pigs (Use of Anaesthetics) Order 1974	S.I. 1974/798	The whole Order.
The Welfare of Livestock (Prohibited Operations) Regulations 1982	S.I. 1982/1884 amended by S.I. 1987/114	The whole Regulations.
The Welfare of Livestock (Prohibited Operations) (Amendment) Regulations 1987	S.I. 1987/114	The whole Regulations.
The Welfare of Farmed Animals (Scotland) Regulations 2000	S.S.I. 2000/442 amended by SSI 2002/334 and 2003/448	Schedule 3D paragraphs 8 and 9. Schedule 6, Part II, paragraphs 19 – 26.

**EXPLANATORY NOTE***(This note is not part of the Regulations)*

These Regulations are made in exercise of the powers under section 20(5) of the Animal Health and Welfare (Scotland) Act 2006 (“the Act”) which enables the Scottish Ministers to specify procedures to which section 20 of the Act shall not apply.

Section 20(1) and (2) of the Act make it an offence to carry out, cause to be carried out, permit to be carried out or fail to take reasonable steps to prevent, a prohibited procedure on an animal. Section 20(3) makes it an offence to take or cause to be taken an animal from a place in Scotland for the purposes of having a prohibited procedure carried out on that animal. A prohibited procedure is a procedure which involves the interference with the sensitive tissues or bone structure of an animal. Section 20(5) provides that such procedures may be carried out for the purpose of medical treatment of an animal.

These Regulations specify procedures to which section 20 will not apply provided they are carried for a purpose specified in the Regulations, in accordance with any specified conditions and in accordance with good practice.

Schedules 1 to 12 lists, by type of animals, the procedures exempted, the purposes for which those procedures may be carried out and any applicable conditions.

Schedule 13 lists the instruments which are revoked by these Regulations

The restrictions on the performance of acts of veterinary surgery set out in the Veterinary Surgeons Act 1966 and related provisions are unaffected by these Regulations.

The provisions on the performance of operations on animals without the use of anaesthetics in the Protection of Animals (Anaesthetics) Act 1954 (c.46), the Protection of Animals (Anaesthetics) Act 1964 (c.39) and related instruments are unaffected by these Regulations.

These Regulations come into force on the day after the day on which they are made.

A Regulatory Impact Assessment of the effect which this instrument will have on the costs of business has been prepared and placed in the Scottish Parliament reference centre. Copies of the

Regulatory Impact Assessment are available from the offices of the Scottish Executive Environment and Rural Affairs Department at Pentland House, 47 Robb's Loan, Edinburgh, EH14 1TY.