

CONSULTATION ON PROPOSED PROHIBITED PROCEDURES (EXEMPTIONS) (SCOTLAND) REGULATIONS 2007

Response by Advocates for Animals

December 2006

Introduction

Advocates for Animals is grateful for the opportunity to comment on the proposed Prohibited Procedures (Exemptions) (Scotland) Regulations 2007. We support the premise of Section 20 of the Animal Health and Welfare (Scotland) Act 2006 that it should be an offence to mutilate an animal, that is, “to interfere with the sensitive tissues or bone structure of an animal”.

We welcome the Scottish Executive’s adherence to the principle that dogs should not have their tails docked except for over-riding therapeutic reasons. In our view this principle should apply equally to other animals.

In general terms, we feel that there are too many exemptions proposed by the draft regulation, and that these cannot all be justified on the grounds stated in the Schedules attached to the regulation. In particular, there is excessive provision for mutilations for the purpose of “general animal management”. We feel that the consultation should more accurately reflect the principle of Section 20 that no animal should be mutilated. Only significant welfare benefits arising from mutilation should justify making any exemption, and these benefits are not demonstrated in the consultation paper. Very often the benefit of having a natural living environment is accompanied by the avoidance of painful management procedures.

We request that the current consultation be widened so that the individual procedures involved can be examined in much more detail. We take issue with the consultation’s assumption that many current procedures should be continued without any review of necessity, pain and pain relief. A great many procedures are listed and their purpose is not always clearly indicated.

We note that Section 3(c) of the draft regulation requires any exempted procedure to be carried out in accordance with good practice. We suggest that, in the case of most farmed animal mutilations, current practice is not good enough – for example, many procedures are carried out routinely and without pain relief. The perceived need for many of these procedures arises because animals (for example, pigs and chickens) are kept in barren, unnatural environments where they are subject to stress and cannot carry out their natural behaviours. The concept of “routine” use of procedures also requires clarification.

The importance of pain relief

We believe that those procedures that continue must be mitigated by the provision of pain relief.

The preamble to Question 3 in the consultation paper states that “all permitted procedures (not just those carried out for identification purpose 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 ...”.

We would point out, however, that the list of procedures permitted without anaesthetic under current legislation is lengthy and includes: rubber ring castration of calves, lambs and piglets under seven days; tail-docking of lambs and piglets under seven days; branding/tattooing of cattle, pigs, sheep, goats, horses, deer and fish; ear-notching of cattle, pigs, sheep, goats, horses, deer; ear-tagging of cattle, pigs, sheep, goats, horses, deer; de-beaking of hens, chickens and turkeys; bill-trimming of ducks; de-snooding of turkeys under 21 days; dubbing of male breeding chickens up to 72 hours; de-spurring of male breeding chickens; toe-cutting of male breeding chickens and turkeys up to 72 hours; de-clawing of male breeding chickens; nose-ringing of pigs and bulls; teat-cutting of calves up to three months; and tooth-cutting of piglets up to seven days.

These are painful procedures and we consider that conditions should be attached to all the relevant Schedules to ensure that pain relief is given at the time of the procedure, and for as long as necessary.

Public awareness of currently-practised procedures

Advocates believes that the public are not generally aware of the prevalence of husbandry procedures involving mutilations, and that, if there was greater awareness, there would be a reluctance to support the proposed exemptions. This view is supported by an independent public opinion survey conducted on our behalf by TNS System Three in autumn 2006.

Details of the survey questions and results are shown at Annex A.

In summary, less than one in ten people thought that all mutilations should be allowed to continue as at present. In addition, the survey found that the majority of people were unaware of the scale of mutilations and would prefer to buy meat from un-mutilated animals.

- Nearly two thirds (63%) of people were unaware that millions of young farmed animals were subjected to mutilations in Scotland each year without giving them pain relief;
- Nearly two thirds (62%) of people would prefer to buy meat and other animal products derived from animals that have not been subjected to

mutilations;

- Nine out of ten people (89%) believed all or some mutilations of animals should be banned: 44% of people believed all mutilations should be banned; 45% believed that each mutilation should be examined separately to assess whether they have an overall animal welfare benefit and those that did not should be banned; and less than one in ten people (9%) thought all mutilations should be allowed to continue as at present.

A survey on the tail-docking of dogs was carried out in spring 2006. Again, the details of the survey questions and results are shown at Annex A. Over 68% of those questioned supported a ban on the tail-docking of all dogs.

Role of new legislation

The role of the new Regulations should be to ensure that:

- (i) No mutilation that causes pain would be permitted unless adequate anaesthesia and continuing pain relief (analgesia) are given;
- (ii) No mutilation that causes pain would be carried out by an unqualified person, and ideally all procedures would be carried out by a qualified veterinary surgeon;
- (iii) No mutilation that causes a deterioration in the animal's quality of life, for example by preventing some aspects of natural behaviour, would be permitted other than in exceptional individual circumstances.

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We believe that the review should take account of the following factors:

- If a mutilation is permitted under current legislation but is no longer practised, there is no need to legislate for it to continue.
- If a change of husbandry or management system would obviate the need for a mutilation, and there is no other over-riding factor in its favour, there is no need to legislate for it to continue.
- As long as any mutilation is allowed to continue, there should be an obligation to use the least painful method.

It is our view that, for market and commercial reasons, many farmers who normally support initiatives to improve animal welfare believe that mutilations such as castration, tail-docking and disbudding/de-horning are unavoidable until better solutions can be found. Advocates believes that stronger legislation on mutilations would support the position of those farmers who wish to achieve the highest welfare standards for their animals. In addition to legislation, it is essential that adequate funding is provided for research into breeding and husbandry methods that address the management problems that mutilations are intended to solve.

We wish formally to lodge our report *Painful Reality: Why painful mutilations of animals must be reviewed* as part of this submission. The report discusses issues of pain and necessity, both of which, we believe, must be examined before any measure to perpetuate the use of animal mutilations is considered. It contains more extensive discussion and recommendations on the most prevalent procedures covered by the consultation. The report can be accessed at

<http://www.advocatesforanimals.org.uk/pdf/painfulreality.pdf>

and a copy will be enclosed with the paper version of this response.

Responses to questions

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

The definitions are sufficiently clear.

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

We are not aware of any other procedures that should be exempted by the Regulations.

We seek clarification of the “other method(s) required by law” for the purposes of identification, referred to in all Schedules except Schedule 11. It is difficult to comment on this without knowing what may be involved.

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

We believe that all of the procedures listed should be subject to the condition that they may only be carried out by a veterinary surgeon or by persons trained by veterinary surgeons to a consistent standard.

The restrictions provided by the legislation cited in the preamble to question 3 are not sufficient. This legislation currently permits, for example, the hot branding of horses by an unqualified person, without administering pain relief. This is unnecessary and inhumane. Hot branding of horses should not be exempted. It is very little used nowadays and is a primitive means of identification which has been superseded.

Another example that should be further restricted or prohibited is the slap marking of pigs. While this is not specifically mentioned in the consultation, we assume that it is covered by the term “tattooing”. Again, the legislation cited permits this form of identification to be applied to animals by an unqualified person, without administering pain relief.

We do not think that the ear notching and ear clipping of pigs is an acceptable means of identifying animals in the 21st century, given the availability of alternative methods such as microchipping; and we note the comment in paragraph 26 of the consultation paper that it has largely been replaced by other identification methods such as electronic ear buttons. We request that ear-notching and ear-clipping be deleted from the proposed regulation.

We acknowledge that the ear-tagging of livestock is required under European law as an aid to traceability. However we are aware that ear tagging can cause pain and injury, either at the time of insertion or subsequently, and that farmers’ representatives have raised the welfare implications of double-tagging of sheep in the past. We note that the Scottish SPCA has called for a review of tag designs to develop and design methods which would cause the minimum of associated ear damage, and we support this recommendation.

We note that the consultation does not include the cutting of the toes of poultry as a means of identification. We assume from this that the cutting of toes of poultry as a means of identification will therefore be prohibited under the Animal Health and Welfare (Scotland) Act, and we seek clarification on that point.

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

We support the humane spay/neutering of companion animals as this has been shown to have long-term health and welfare benefits. We do not however think that these procedures are used only or principally for the control of reproduction in farmed animals. The castration of lambs and calves is used primarily for the control of male sex-related behaviour such as aggression. The consultation does not make this clear and we believe is misleading. We also see a contradiction between the description of the purpose of equine castration in the consultation document, and that in the draft Schedule 6 to the Regulations. The consultation states that the purpose is to avoid unwanted breeding, whereas Schedule 6 also gives general animal management as a purpose. We seek clarification of this point.

We note that the Scottish Executive recommends that keepers of calves, lambs and piglets should consider carefully whether castration is necessary (Scottish Executive Environment and Rural Affairs Department Codes of Recommendations for the Welfare of Cattle/Sheep/Piglets); and describes castration as a mutilation that “should be avoided wherever possible”. It would be in keeping with these recommendations to have more stringent conditions regarding castration included within the relevant Schedules.

We believe that castration should only be carried out by a veterinary surgeon, using appropriate pain relief, in view of the significant pain involved. If this is not accepted, we recommend that the castration of lambs and calves should be made subject to the same condition as pigs, i.e. ‘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’.

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

We welcome the placing of additional restrictions on the castration of pigs, in particular the requirement that it may only be performed to control reproduction.

We see no reason to permit the castration of pigs by unqualified persons to continue. Castration is not routinely performed in Scotland, as pigs are generally slaughtered before they reach sexual maturity and thus the likelihood of taint to the meat is reduced. If there appears to be a need to continue to permit castration of pigs under particular limited circumstances, we believe that this should be only permitted by a veterinary surgeon using anaesthetic and administering pain relief.

Paragraph 52 of the consultation paper lists three additional restrictions to be placed on the castration of pigs: that it may only be performed to control reproduction; by means which do not involve the tearing of tissues; and either by a veterinary surgeon or a person trained in accordance with the Welfare of Farmed Animals (Scotland) Regulations 2000. If castration is to continue to be permitted, we would welcome all three of these restrictions.

We note, however, that Schedule 2 of the draft Regulations also lists “general animal management” as a permitted purpose. This appears inconsistent with the consultation paper. We would not agree to the castration of pigs for general animal management.

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

There are no other procedures for management purposes which we consider should be included in the Regulations. Conversely we believe that there should be further restrictions on these procedures, on welfare grounds. A more detailed discussion of a large numbers of procedures can be found in Advocates’ report *Painful Reality*, which we hope will be read in conjunction with this document.

We request that a definition of “general animal management” be added to Section 2 of the Regulations, to avoid the potential use of this term as a general default justification for a variety of procedures.

We note that the consultation paper refers to vasectomy, spaying and embryo transfer as being for control of reproduction, but the Schedules for several species (bovines, pigs, sheep, goats, equines, deer, feral cats, and dogs) also permit them to be used for general animal management. We are dubious as to the relevance of these procedures in general animal management.

Apart from the castration of pigs, no conditions have been attached to the procedures for the control of reproduction.

It is also possible to manage animals without routinely resorting to castration, although it may be considered necessary in some circumstances. We would like to see more detailed conditions in the relevant Schedules for each species, making it clear that castration should only be used where other methods have been unsuccessful. The conditions for tail-docking of pigs and de-beaking of hens are already drafted in this way

Antler removal in deer

We assume that the removal of antlers before they are hardened will continue to be carried out only by a qualified veterinarian using anaesthetic, and for therapeutic reasons. There is evidence that the disbudding of deer calves causes pain and distress, and we welcome condition in Schedule 7 that the removal of antlers may only be performed where the velvet is frayed and the greater part shed.

De-horning of adult cattle, sheep and goats

These procedures cause both short- and long-term pain. Advocates are strongly of the view that de-horning should be prohibited except when carried out by a veterinarian using a sedative, anaesthetic and analgesia for post-operative pain. We request that conditions be attached to Schedules 1, 4 and 5 to that effect.

We are not sure that de-horning of sheep is much used nowadays and question whether it is necessary to provide for it. If it is to be used, pain relief for this procedure is essential.

Tooth-cutting of pigs

On tooth-cutting of pigs, we believe that the Scottish Executive Code of recommendation for the welfare of pigs is flouted whenever pig farmers routinely clip piglets' teeth within the first day or two of life. It is unlikely that the farmer could, at that stage, have the required evidence of injuries to sows' teats or to other pigs' ears or tails. We note that 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 or other "vices". However, we are aware of farmers who currently practise tooth-cutting and do not provide forage materials for their pigs, despite there being a legal obligation on them to do so.

Having made these comments we nonetheless welcome the proposed restrictions on tooth-cutting in paragraph 80 of the consultation paper. The interpretation and enforcement of these conditions should be rigorous.

Nose-ringing of pigs

Nose-ringing works by causing pain and thus preventing the animal carrying out its natural rooting and foraging behaviour. We believe that both of these aspects are unacceptable and we recommend that the nose-ringing of sows should be prohibited. If it is not prohibited, the condition in Schedule 2 regarding persons who may perform the procedure should, in our view, be confined to qualified veterinary surgeons providing appropriate pain relief.

Tail-docking of pigs

We seek clarification of why the docking of pigs is described in Schedule 2 as being connected with handler safety. The conditions in the Schedule do not discuss handler safety, and neither does the relevant section (paragraphs 93 and 94) of the consultation paper.

We welcome the conditions regarding the need for evidence of injury to sows' teats or to the ears or tails of other pigs. We see this as necessary to obviate the routine docking of pigs, which we believe is already contrary to Council Directive 91/630/EEC laying down minimum standards for the protection of pigs.

We also welcome condition (c) which requires that other environmental or management measures must have been taken before the decision is made to dock. We submit that this must always include the provision of the

manipulable forage material which pigs require in order to carry out their normal rooting behaviour, and which is required by the Annex to the Pigs Directive. We have long had concern that current guidance, in suggesting that other forms of environmental enrichment such as a chain or football, is misinterpreting European law, and we understand that this issue is being kept under scrutiny by the European Commission.

If tail-docking of pigs is to be permitted, we welcome the requirement for anaesthetic and prolonged analgesia for piglets over eight days old: however, in view of evidence that very young animals feel pain as acutely, if not more so, than older animals, we believe that it would be better to require this for all ages.

Tail-docking of sheep

While we would prefer there to be no docking, (an outcome which could be sought in the longer term, for example by breeding sheep with naturally shorter tails) we accept that there may currently be circumstances where it is unavoidable. We suggest therefore that the conditions within the Schedule should stipulate that docking is only to be used as a last resort. If it is used it should be carried out by a veterinary surgeon who administers appropriate pain relief. The Executive should stipulate which methods are acceptable and unacceptable. For example, the ringing of lambs' tails inflicts long term pain on the animal. We note that the Executive discourages tail docking in its Code of Welfare for sheep and we believe that this would be an appropriate time for the Executive to develop this policy through legislation.

Beak-trimming of poultry

We welcome the conditions within Schedule 3, in particular the requirement that a veterinary surgeon considers the mutilation to be necessary and that prior measures to improve the environmental conditions must have been taken. We strongly suggest that this must mean all possible measures, not merely token gestures. One of the most significant measures that could be taken would be a reduction in stocking densities. Even better, for poultry and other species, would be a shift to more extensive systems where the animals' behavioural needs can be met. We suggest further that the conditions should include a requirement for alternative methods such as beak abrasion techniques should also have been tried. We welcome the future phase-out of beak-trimming under European law and we suggest that investment should continue to be made in improving conditions for laying hens and into finding alternatives to beak-trimming.

De-snooding of turkeys

Cutting off toes of poultry

Dubbing of domestic birds

Pinioning of any bird other than poultry

We do not think that general animal management is a sufficient justification for the procedures described. We believe that de-snooding of turkeys is carried out on birds kept in intensive systems, where they may fight. We suggest that alternative systems offer a more humane means of avoiding injury. Cutting of the toes of poultry is carried out, not only to avoid injury through fighting, but

also as a mean of identification. We see this as unacceptable and we seek an assurance from the Executive that, as “identification” is not a designated purpose within the Schedule, it will no longer be legal to cut a bird’s toes off for identification.

The pinioning of non-poultry birds is not carried out for general animal management but to prevent the birds carrying out their most fundamental characteristic behaviour, which is to fly. Such a disabling procedure cannot be justified on grounds of general animal management and is surely against the general principle of the Animal Health and Welfare (Scotland) Act which provides that animals must be able to carry out their normal behaviour. We ask that the Executive either provides a better justification for permitting this mutilation or, preferably, decides against permitting it. We cannot see why the pinioning of other birds should be permitted, when that of domestic poultry is prohibited.

Supernumerary teat removal in bovine animals

We seek clarification of the justification for this procedure. This involves cutting off a calf’s teats with a pair of scissors. We seek information as the Executive’s belief that this is a necessary animal health measure, and we seek assurance that it will not be carried out without pain relief and local anaesthetic. The FAWC report into the welfare of dairy cattle recommended that the procedure should be carried out with local anaesthesia.

Embryo transfer

We note that embryo transfer – to be permitted for bovines, pigs, sheep, goats, equines, deer, dogs and other animals – is described as being for the purposes both of control of reproduction and general animal management. We seek clarification of the purpose of embryo transfer in general animal management.

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?

We believe that the Executive should hold to its stated policy of prohibiting the tail docking of all dogs. There are over-riding welfare reasons for ending this practice, which we will not repeat here but which are well summarised in Section 2.2.3 of our report *Painful Reality*. We are extremely concerned to see it suggested in paragraphs 27, 30 and 32 of the Partial Regulatory Impact Assessment that there might be an exception for working dogs. This was not the undertaking given to the Scottish Parliament by the Minister on 31 May 2006, when the Parliament voted to pass the Bill. This reference could cause confusion and we hope that it does not indicate any change of policy.

Conclusion

We welcome the opportunity created by this consultation for a discussion of the many mutilations that animals are subject to, and the reasons for their use. We are concerned that it appears that many painful procedures are to be permitted to continue without assessment of their welfare implications. We request that a full review of all mutilations be set in train immediately.

ANNEX A

PUBLIC OPINION SURVEYS

Husbandry procedures

TNS System Three was commissioned to interview 1036 respondents across 43 sampling points over the period 28th September – 7th October 2006. To ensure that the sample was representative of the adult population in terms of age, sex and class, it was weighted to match population estimates from the National Readership Survey of January – December 2004.

The text of the introduction and questions is shown below.

Introduction

If you buy lamb, pork, beef or eggs it is likely that the animals from which they are derived will have been subjected to a variety of mutilations in their first days of life. The Royal College of Veterinary Surgeons defines 'mutilations' as *"all procedures, carried out with or without instruments, which involve interference with sensitive tissues or the bone structure of an animal, and are carried out for non-therapeutic reasons."* These happen in Scotland as well as many other countries. For example, the majority of lambs and piglets have their tails docked and male lambs are castrated, generally without anaesthetic. Egg-laying hens usually have the ends of their beaks cut off. Farmers claim these practices are carried out for animal welfare reasons as they make the animals' behaviour easier to manage, although animal welfare organisations claim that improving farming systems can remove the need for mutilations. It is currently legal to carry out these and many other mutilations on farmed animals without providing any pain relief.

Questions

1. *Before today, were you aware that millions of young farmed animals are subjected to these mutilations in Scotland each year without giving them any pain relief?*

Yes 37% (380)

No 63% (655)

Don't know 0% (1)

2. *Would you prefer to purchase meat and other products derived from animals that have not been subjected to mutilations, or does it make no difference to what you buy?*

Prefer to buy from un mutilated 62% (645)

Makes no difference 33% (347)

Don't buy anyway 3% (31)

Don't know 1% (13)

3. *The Scottish Executive is reviewing the law regarding mutilation of animals. Which of these options would you support as the outcome for this review?*

Allow all mutilations to continue as at present 9% (88)

Examine each mutilation separately to assess whether they have an overall animal welfare benefit and ban those that do not 45% (485)

Ban all mutilations 44% (463)

Don't know 3% (30)

Tail-docking of dogs

TNS System Three was commissioned by Advocates for Animals to interview a sample of 1,011 adults aged 16+ in Scotland between 30 March and 4 April 2006. Interviews were conducted in person at 43 sampling points across the country. To ensure that the sample was representative of the adult population in terms of age, sex and class, it was weighted to match population estimates from the National Readership Survey of January – December 2004.

The text of the introduction and questions is shown below.

Introduction

The Scottish Executive has said it intends to ban tail-docking of all dogs. Tail-docking is the removal of all or part of a puppy or dog's tail, without anaesthetic and mostly for reasons of the appearance of the breed of dog. Some owners claim that it is necessary to dock the tails of working dogs to prevent possible future tail injuries, but the Royal College of Veterinary Surgeons and the British Veterinary Association support a complete ban on tail-docking of all dogs, including working dogs.

Question

Do you think that the Scottish Executive should ban tail-docking of all dogs, allow the docking of working dogs' tails only, or continue to allow docking of tails for all dogs?

Ban for all dogs: 68% (685)

Allow for working dogs only: 20% (206)

Allow for all dogs: 8% (79)

Don't know: 4% (41)