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Consultation on Mutilations (Permitted Procedures) (England) Regulations and The Docking of Working Dogs' Tails (England) Regulations

November 2006

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Executive Summary

The Animal Welfare Act 2006 has been passed by Parliament. A copy of the Act can be downloaded from the Office of Public Sector Information website at: http://www.opsi.gov.uk/acts/acts2006/ukpga_20060045_en.pdf. It will shortly be accompanied by a set of Explanatory Notes and these will be available on <http://www.defra.gov.uk/animalh/welfare/Act/index.htm> when published. A copy of the Regulatory Impact Assessment which accompanies the Act can be downloaded from the Defra website at: <http://www.defra.gov.uk/animalh/welfare/bill/pdf/ria1.pdf>

Section 5 of the Act contains a ban on “mutilations”, unless they are performed for medical reasons. It is considered incompatible with the Act’s aim of promoting responsible ownership of animals to permit owners to mutilate them or have them mutilated.

“Mutilations” are defined as “prohibited procedures” in Section 5(3) of the Act, being procedures which involve interference with the sensitive tissues or bone structures of an animal, other than for the purpose of its medical treatment.

Section 6 of the Act contains a ban on the docking of dogs’ tails, unless the procedure is performed for medical reasons or the dog is a certified working dog not more than 5 days old. It also bans the showing of docked dogs at events where an entrance fee is charged to the public (aside from demonstrations of their working ability).

Consultation

Section 5(4) contains powers for the Secretary of State to make Regulations specifying procedures which will be exempt from the application of the mutilations ban. Under section 5(5), he must consult such persons as appear to have an interest before making such Regulations.

Sections 6(4), (6) and (8) contain a power for the Secretary of State to make Regulations regarding the certification of dogs for the purposes of this section (and by which it will be exempted from the ban on tail docking); and how exempted working dogs will be defined and identified. Under section 6(15), he must consult such persons as appear to have an interest before making these Regulations.

For ease of reference and because of the large number of stakeholders who have an interest in both sets of Regulations, we are consulting on both together.

Part of the purpose of this consultation is to determine whether there are mutilations procedures which should be exempted from the general ban on

the face of the Act, and if so which ones. Procedures have been considered for exemption on the basis that they either secure an overall welfare benefit, or that they are recognised management practices.

The other purpose of this consultation is to determine which dogs should be exempted from the tail docking ban, and how they will be identified and certificated.

Two draft Statutory Instruments ('SIs') are attached as Annexes A and B. **The Government welcomes views on both their content and drafting.**

Two draft Regulatory Impact Assessments ('RIA') have also been prepared, and are attached as Annexes C and D. **The Government welcomes views on their content, and particularly invites detailed submissions on its analysis of the possible financial benefits and burdens of these proposed measures.**

Scope

Mutilations (Permitted Procedures) (England) Regulations

These Regulations will apply in England only. Wales will create its own list of exemptions under section 5, and Scotland will regulate mutilations under its own Animal Health and Welfare (Scotland) Act 2006.

The docking of dogs tails is explicitly excluded from the mutilations ban. It is dealt with in section 6 of the Act itself.

The definition of a "mutilation" (referred to as a "prohibited procedure" in section 5 of the Act) excludes any procedures performed for medical treatment. Any procedure, whether listed or not in the Regulations, will continue to be permitted if performed for medical reasons. Such procedures are not within the scope of this consultation.

There are also a small number of procedures which are regulated by the European Union. It is not within the scope of this consultation either to widen the exemption for these procedures, or to narrow them. Where this is the case, it is indicated throughout this document.

The question of who performs various procedures is also beyond the scope of this consultation. As explained below, Defra is currently undertaking a wider review of the Veterinary Surgeons Act 1966 and does not consider it would be appropriate to deal with these questions here.

The Docking of Working Dogs' Tails (England) Regulations

These Regulations will apply to England only. Wales will make its own Regulations under section 6, and Scotland will address the docking of dogs tails separately under its own Animal Health and Welfare (Scotland) Act 2006.

Summary of Questions

Mutilations (Permitted Procedures) (England) Regulations

- Q1 – 8 Do you agree with the intention of the draft Regulations? Do you agree with their drafting? Do you think there are further general provisions that should be added?
- Q9 – 15 Do you agree with the suggested exemptions for procedures used to control reproduction? Do you agree with the conditions and anaesthetic requirements the Government proposes attaching to them? Do you think there are further methods of controlling reproduction that fall within the definition of “prohibited procedure” (section 5(3) of the Act) which ought to be exempted?
- Q16 – 19 Do you agree with the suggested exemptions for identification methods? Do you agree with the Government’s proposal not to attach conditions or anaesthetic requirements to them? Do you think there are further methods of identification that fall within the definition of “prohibited procedure” which ought to be exempted?
- Q20 – 33 Do you agree with the suggested exemptions for management procedures? Do you agree with the conditions and anaesthetic requirements the Government proposes attaching to them? Do you think there are further management procedures that fall within the definition of “prohibited procedure” which ought to be exempted?

The Docking of Working Dogs' Tails (England) Regulations

- Q34-38 Do you agree with the definitions as stated? Is the evidence required sufficient to show that a dog is likely to work? Will the regulations and certificate provide enough safeguards for vets? Do you agree that the list of breeds covers all dogs that both work and that would benefit from prophylactic docking? Does the draft certificate cover all necessary information?

How to Respond

Please send your responses to:

Mutilations and Tail Docking Consultation Responses
Animal Welfare Act Team, Area 506
1A Page Street
Westminster
London SW1P 4PQ

Telephone: 0207 904 6505

Fax: 0207 904 6710

Email: mutilations-docking.consultation@defra.gsi.gov.uk

The closing date for responses is **Tuesday 16th January 2007**.

This consultation is only 8 weeks long. This is because of the short time between the passing of the Animal Welfare Act 2006 by Parliament in November 2006 and the need to bring the Regulations into force by common commencement in April 2007. It is considered that because this consultation does not contain any major policy changes that have not already been made public, an 8 week consultation period is acceptable.

Publication

Responses will be used by the Animal Welfare Division of Defra to determine whether any amendments are required to the draft SIs, and RIAs, which have been prepared. The draft SIs, as amended where necessary, will subsequently be considered by Parliament. Information contained in the responses may be replicated in future drafts of the RIA in order to explain the policy behind a particular proposal. A summary of the responses received will be published on the Defra website, at <http://www.defra.gov.uk/animalh/welfare/Act/index.htm>.

In line with Defra's policy on openness, at the end of the consultation period copies of the responses we receive may be made publicly available through the Defra Information Resource Centre, Lower Ground Floor, Ergon House, 17 Smith Square, London SW1P 3JR. The information they contain will also be published in a summary of responses.

If you do not consent to this, you must clearly request that your response be treated confidentially. Any confidentiality disclaimer generated by your IT system in e-mail responses will not be treated as such a request. You should

also be aware that there may be circumstances in which Defra will be required to communicate information to third parties on request, in order to comply with its obligations under the Freedom of Information Act 2000 and the Environmental Information Regulations.

Mutilations (Permitted Procedures) (England) Regulations

Interpretation

Draft regulation 2 contains definitions for the purposes of the SI.

Question 1:

Do you agree with the definitions proposed in draft Regulation 2?

Requirements when carrying out procedures

Proposal

Draft regulation 3 contains a general requirement that all the exempted procedures be performed:

- a) in accordance with any relevant requirement in Schedules 2-9
[see later questions to comment on content of Schedules 2-9]
- b) in such a way as to minimise the pain and suffering it causes to the animal;
- c) in hygienic conditions; and
- d) in accordance with good practice

This draft regulation will apply when a procedure is performed in an emergency for the purposes of saving life or relieving pain, but only to the extent that it is practicable to meet the relevant requirements in the circumstances (see question 3).

Reasons for proposal

The Government does not consider it possible, nor indeed desirable, to stipulate the exact circumstances in which each procedure may be performed. The SI would become unnecessarily over-prescriptive, and would risk omitting some circumstance in which it would be appropriate to permit a procedure.

The Government recognises that animal owners and vets consider that some flexibility and discretion are necessary in managing animals.

Therefore, the Government proposes a set of simple overarching requirements, rather than specific requirements for each individual procedure.

(a) minimising pain and suffering

The Animal Welfare Act 2006 will repeal the Protection of Animals (Anaesthetics) Acts 1954 and 1964, and the secondary legislation made under them¹. They will largely be replaced by section 4 of the Act because, in general, performing a procedure without anaesthetic, where this is inappropriate, will cause unnecessary suffering to the animal and will be an offence.

¹ Protection of Animals (Anaesthetics) Act 1954 c.46; Protection of Animals (Anaesthetics) Act 1964 c.39; Protection of Animals (Anaesthetics) Act 1954 (Amendment) Order 1982, SI No. 1626; Protection of Animals (Anaesthetics) Act 1954 (Amendment) (No.2) (England) Order 2003, SI No. 1328

There are some procedures in the draft SI which can only be performed with anaesthetic. Where a procedure does not *have* to be performed with the use of anaesthetic, draft regulation 3(b) will mean that the person performing the procedure must still use his *discretion* as to whether anaesthetic would be appropriate *in the individual case*.

Question 2:

Do you agree that it should be a general requirement that all exempted procedures should be carried out in a manner that causes the minimum pain and suffering to the animal?

(b) Hygienic conditions

Under the Welfare of Farmed Animals (England)(Amendment) Regulations 2000², Schedule 6, paragraph 20, “interventions” performed on pigs must be done “under hygienic conditions”.

The Government considers this requirement should be applicable to the performance of all exempted procedures, to minimise the risk of infection.

Question 3:

Do you agree that it should be a general requirement that all exempted procedures should only be performed in hygienic conditions?

(c) Good practice

This is intended to ensure that procedures are only performed by methods that accord with good practice.

For example, tail docking of pigs is exempted, but it would generally not be good practice to dock a pig by simply pulling the tail off.

It is presumed that, where the exempted procedures are acts of veterinary surgery, the requirements of good practice would be informed by the RCVS Guide to Professional Conduct.

² SI 2000/1870 – implementing Commission Directive 2001/93/EC of 9 November 2001, amending Directive 91/630/EEC laying down minimum standards for the protection of pigs.

Question 4:

Do you agree that it should be a general requirement that all exempted procedures should only be performed in accordance with good practice?

Question 5:

Are there any other general requirements which you think the draft SI ought to contain?

Performance of prohibited procedure in an emergency

Proposal

Draft regulation 4 contains an additional general exemption from the ban on mutilations, for procedures performed in an emergency for the purposes of saving life or relieving pain of a protected animal.

This means that no offence under section 5 of the Act would be committed, if the prohibited procedure were carried out for the purpose of saving life or relieving pain.

It could be used, for example, where an animal is trapped by its tail, will die if it is not released, and the only means of releasing it is to amputate its tail in what, but for regulation 4, would be a violation of section 5.

Draft regulation 4(2) states that in an emergency situation, the requirements that procedures be carried out in such a way as to minimise pain and suffering, in hygienic conditions, and in accordance with good practice, only have to be met to the extent it is practical in the circumstances.

Reasons for proposal

Existing legislation already contains equivalent provisions:

Schedule 3 paragraph 3, Veterinary Surgeons Act 1966
Schedule 1 paragraph 2, Protection of Animals (Anaesthetics) Act 1954
Regulation 4(a), Welfare of Livestock (Prohibited Operations)
Regulations 1982, SI 1982/1884

Because the draft SI and the Act will repeal these measures, it is necessary to put an equivalent provision in the draft SI to cover emergency situations.

Not including this provision would mean removing a defence that is currently available to police, local and central Government inspectors, veterinary surgeons, and members of the public when they have acted in an emergency.

It also removes possible debate about whether “in the course of medical treatment” in section 5 of the Act could include ‘saving life or relieving pain’ such that it is outside the scope of the section 5 ban.

Question 6:

Do you agree that there should be a general exemption from the mutilations ban for procedures performed for the purpose of saving life or relieving pain?

Draft regulation 4(2) is proposed so that in an emergency a person is not prevented from acting in order to save the animal's life, or relieve its pain, simply because of the constraints of that particular emergency situation.

For example, the animal trapped by its leg and in need of release may be miles from the nearest source of antiseptic, sterile dressing, anaesthetic etc. In such a situation it may be in the animal's interests to act, even though the requirements of regulation 3 cannot be met.

Question 7:

Do you agree that where a person carries out a prohibited procedure in an emergency, he should only have to minimise pain and suffering, ensure hygienic conditions, and perform the procedure in accordance with good practice, to the extent that it is practicable in the circumstances?

Persons who may carry out prohibited procedures

Proposal

Draft regulation 5(1) states that a procedure is only exempt from section 5 of the Act if the Veterinary Surgeons Act 1966 or the Veterinary Surgeons (Exemption) Order 1962 are complied with.

So, if a procedure is carried out by a lay-person, and it is supposed to be performed by a vet under either of those pieces of legislation, a prosecution under section 5 of the Act would be available as well as under the veterinary surgeons' legislation.

Reasons for proposal

The Government recognises that the question of whether a procedure should be exempt from the mutilations ban may be very closely linked to a requirement as to who performs it.

There is no specific stipulation as to who may perform each individual procedure because Defra is currently undertaking a separate, and much wider, review of the Veterinary Surgeons Act (VSA). The Government considers it would be inappropriate to pre-empt this.

The only specific stipulation is draft regulation 5(2), which states that tail docking and castration of pigs aged 7 days or under can be performed by lay-people. This is to ensure compatibility with the requirements of Council Directive 2001/88/EC of 23 October 2001³, which is not currently reflected in veterinary surgeons' legislation.

Note: as draft regulation 5(2) implements a European obligation, the Government is not consulting on whether this provision should be included. It is concerned only with draft Regulation 5(1).

Question 8:

Do you agree that it is necessary to include a general requirement that stipulates who can perform the exempted procedures?

³ Amending Directive 91/630/EEC laying down minimum standards for the protection of pigs. Currently implemented by the Welfare of Farmed Animals (England)(Amendment) Regulations 2000, Schedule 6, paragraph 23.

Procedures for Controlling Reproduction

Proposal

The draft SI contains exemptions for:

Vasectomy

Spaying

Castration

Ovum transplantation, including ovum collection, by a surgical method

Embryo collection or transfer by a surgical method

These exemptions relate to some or all of the following species: cattle, pigs, sheep, goats, horses, deer and other species but not to birds.

No exemptions for controlling the reproduction of birds are proposed.

Changes to the status quo proposed

The only change made to the status quo in this section is the requirement that spaying be conducted with anaesthetic. Currently it is not a necessity, though it is routinely used.

All these procedures are permitted under the current law.

Reasons for proposal

The Government considers that it is not always in the best interests of an animal's health or welfare to allow uncontrolled reproduction.

Companion Animals

Companion animals are not subject to natural controls on their population growth, such as predators, disease and starvation. Uncontrolled reproduction among stray and feral animals can cause unnecessary suffering⁴. Feral

⁴ In 2004, 43,568 cats were neutered by the RSPCA. A further 100,000 cats are neutered each year by Cats Protection. Cats with no controls on their reproduction can produce up to 20,000 descendants in five years. The RSPCA alone humanely destroyed 1,089 cats in 2004 because they could not be re-homed (most often, feral cats cannot be found homes) and humanely destroyed a further 11,509 in the same year for medical reasons. A Defra commissioned study of feral cats in 1999/2000 found that the catching, neutering and return of feral cats on site by compassionate individuals or animal welfare organisations had successfully resulted in the decline of 13 colonies since the previous survey in the mid-1980s. This illustrates the effectiveness of neutering as a technique to assist in preventing future animal suffering. Feral or stray dogs are also an example. In 2005 the charity Dogs Trust

animals do not receive medical attention and without vaccinations are vulnerable to many illnesses. More than 50 per cent of the kittens born to feral cats do not live to adulthood. In order to control feral populations, and to avoid potential suffering, both feral, and domestic animals that may come into contact with them, need to be neutered.

The Government considers the lesser suffering of undergoing a neutering procedure with anaesthetic is greatly outweighed by the potential suffering caused by uncontrolled breeding. It would be contrary to the aims of the Animal Welfare Act to permit uncontrolled breeding.

Farm Animals

The castration and vasectomising of farm animals are routine management procedures. The Government considers that uncontrolled reproduction of farm animals has the same potential to lead to suffering as in companion animals, and that any suffering caused by undergoing the procedure is greatly outweighed by the benefits.

Under existing legislation relating to the use of anaesthetics⁵ castration can only be carried out in certain conditions.

In cattle: * if the animal is 7 days old or under, can be done by means of a rubber ring or other device to constrict the flow of blood to the scrotum
 * can be done by any other method at any age, but must be done with anaesthetic if the animal is aged 2 months or over.

In sheep: * if the animal is 7 days old or under, can be done by means of a rubber ring or other device to constrict the flow of blood to the scrotum
 * can be done by any other method at any age, but must be done with anaesthetic if the animal is aged 3 months or over.

In goats: * if the animal is 7 days old or under, can be done by means of a rubber ring or other device to constrict the flow of blood to the scrotum

carried out a Stray Dogs Survey and found that over 105,000 stray dogs were collected by local authorities, of which almost 8,000 were humanely destroyed. Even more dogs than this are destroyed each year through charities. In 2004 the RSPCA had to destroy 1,282 that could not be rehomed and a further 5,743 for medical reasons; while exact figures are not available, a proportion of these would be stray dogs.

⁵ Protection of Animals (Anaesthetics) Act 1954 c.46; Protection of Animals (Anaesthetics) Act 1964 c.39; Protection of Animals (Anaesthetics) Act 1954 (Amendment) Order 1982, SI No. 1626; Protection of Animals (Anaesthetics) Act 1954 (Amendment) (No.2) (England) Order 2003, SI No. 1328

* can be done by any other method at any age, but must be done with anaesthetic if the animal is aged 2 months or over.

In horses: * must be done with anaesthetic

In other animals: * must be done with anaesthetic

Note: in addition, European law stipulates that anaesthetic must be used if a pig is castrated when it is over 7 days old. The Government is therefore not consulting on whether this requirement should be included.

Breeding Technology

The Government considers *ovum transplantation, and embryo transfer, by a surgical method* legitimate management techniques, particularly in relation to the improvement of certain types of farmed livestock. Only exemptions in relation to cattle is proposed; however, if these techniques are used on other species we would welcome further details on which species, and why.

Other forms of breeding technology, such as artificial insemination, have not been included on the exemption list because they are not considered to fall within the definition of a 'mutilation'. They are therefore not caught by the ban and do not require an exemption.

Question 9:

- (a) Do you agree that spaying should be exempt from the mutilations ban?
- (b) Do you agree that it should only be permitted on animals other than cattle, pigs, birds, sheep, goats, horses and deer?
- (c) Do you agree that it should only be permitted when anaesthetic is used?

Question 10:

- (a) Do you agree that vasectomy should be exempt from the mutilations ban?
- (b) Do you agree that it should be permitted on all animals apart from birds?
- (c) Do you agree that it should only be permitted when anaesthetic is used?

Question 11:

- (a) Do you agree that castration should be exempt from the mutilations ban?
- (b) Do you agree that it should be permitted on all animals apart from birds?

- (d) Do you agree that it should only be permitted on sheep if
- (i) anaesthetic is used if the animal is aged 3 months or over?
 - (ii) it is only performed by means of a rubber band restricting the flow of blood to the scrotum, if the animal is 7 days old or less?

- (e) Do you agree that it should only be permitted on goats if:
- (i) anaesthetic is used if the animal is aged 2 months or over?
 - (ii) it is only performed by means of a rubber band restricting the flow of blood to the scrotum, if the animal is 7 days old or less?

- (f) Do you agree that it should only be permitted if anaesthetic is used on:
- (i) horses?
 - (ii) animals apart from those in (a) – (e) and birds?

Question 12:

- (a) Do you agree that ovum transplantation by a surgical method should be exempt from the mutilations ban?
- (b) Do you agree that it should only be permitted on cattle?
- (c) Do you agree that it should only be permitted when anaesthetic is used?

Question 13:

- (a) Do you agree that embryo transfer by a surgical method should be exempt from the mutilations ban?
- (b) Do you agree that it should only be permitted in cattle?
- (c) Do you agree that it should only be permitted when anaesthetic is used?

Question 14:

Do you agree that procedures for controlling the reproduction of birds should not be exempted?

Question 15:

Are there any other procedures for controlling reproduction which you think may fall within the definition of "mutilation" and which should be exempted from the ban?

Identification Procedures

Proposals

The draft SI contains exemptions for:

Freeze branding
Tattooing
Ear notching
Ear clipping
Tagging
Microchipping
Hot branding of horses
Ear tipping of feral cats
Insertion of subcutaneous tracking devices
Removal or perforation of parts of fins, adipose fins or fin rays in fish
Chemical branding of fish
Other methods of identification, involving mutilation, required by law

Changes made to the status quo proposed

The Government does not intend to make any changes to the status quo regarding identification procedures, and does not believe that it has proposed any.

Reasons for proposals

It is a requirement of European animal health legislation that animals be identifiable and traceable, in case of a disease outbreak. Furthermore, the Government considers the balance of evidence shows that there are certain situations in which it is in the animal's welfare interests that it be identifiable, even though this is not a necessity under other legislation.

Freeze branding / Tattooing / Ear Notching, Clipping, Tagging

All of these procedures are standard and established management techniques for identifying animals, mainly farm animals, which are considered acceptable by the RCVS in normal circumstances.

Microchipping

Microchipping is mainly used for companion animals. When a companion animal becomes lost or separated from its owners, it may suffer distress from separation and, over the long term, its welfare would be adversely affected by living as a stray. Microchipping is advantageous as it is permanent, cheap (around £25 on average for a companion animal) and cannot be lost or

altered⁶. Having a microchip inserted causes little distress to the animal; it is thought to be no more painful than a vaccination. The benefits of avoiding the distress and suffering that may be caused by separation from an animal's owners, greatly outweigh the distress of having the microchip inserted.

Hot branding of horses

This procedure is necessary for the identification of semi-feral horses and ponies. These animals need to be easily identifiable at a distance, for example, in case of injury while on common land so that owners can be contacted. Freeze branding is considered impractical and more stressful than hot branding for these animals, because of the greater length of time they have to be restrained for. They are often in herds and at a distance, such that it is not possible to identify a single animal with a microchip reader. Ear tagging is often not sufficient, as tags pull out while the animals are browsing. Hot branding is quick, permanent, and appears not to cause any residual pain. The RSPCA, BEVA, and ILPH all support an exemption for this procedure when it is done on semi-feral horses and ponies.

Ear tipping of feral cats

This procedure is conducted to make it immediately obvious whether the feral cat has been caught and neutered already. The RCVS categorises this as a practical procedure, acceptable when carried out by a veterinary surgeon with full knowledge of all the circumstances relevant to the animal and its environment. The distress caused by the procedure is negligible, as it is conducted while the animal is under anaesthetic for neutering, and is greatly outweighed by the benefits of avoiding future distress associated with trapping and handling by humans, were the same feral cat to be caught on later occasions. This procedure would affect roughly 21,000 feral cats per year (based on the number of cats currently treated by the RSPCA and Cats Protection).

Insertion of subcutaneous tracking devices

This procedure is used by the Environment Agency and CEFAS in fish stock management, for conservation reasons. We wish to permit the tracking of animals to continue.

Removal or perforation of parts of fins, adipose fins or fin rays in fish

This procedure is also used by the Environment Agency, as a means of helping estimate population sizes for conservation purposes.

Chemical branding of fish

This procedure is used for identifying members of brood stock, estimating population size by mark/recapture, and other studies that necessitate the identification of individual fish. It is usually done with a silver oxide pen.

⁶ As the UK is a member of the European Pet Network, the animal would still benefit from the microchip if it became lost anywhere in Europe. The animal reunification service Petlog is the largest in the UK with a database of 2 million records.

Other methods of identification, involving mutilation, required by law

To ensure the SI is capable of adapting quickly to emerging animal identification requirements – for example, in the event of emergency measures being adopted to cope with a disease outbreak – an exemption is proposed for other methods of identification required by law.

Question 16:

- (a) Do you agree that freeze branding should be exempt from the mutilations ban?
- (b) Do you agree that tattooing should be exempt from the mutilations ban?
- (c) Do you agree that ear notching should be exempt from the mutilations ban?
- (d) Do you agree that ear clipping should be exempt from the mutilations ban?
- (e) Do you agree that tagging should be exempt from the mutilations ban?
- (f) Do you agree that microchipping should be exempt from the mutilations ban?
- (g) Do you agree that hot branding of horses should be exempt from the mutilations ban?
- (h) Do you agree that ear tipping of feral cats should be exempt from the mutilations ban?
- (i) Do you agree that the insertion of subcutaneous tracking devices should be exempt from the mutilations ban?
- (j) Do you agree that removal or perforation of parts of fins, adipose fins or fin rays in fish should be exempt from the mutilations ban?
- (k) Do you agree that chemical branding of fish should be exempt from the mutilations ban?
- (l) Do you agree that other forms of identification required by law should be exempt from the mutilations ban?

Question 17:

Do you agree that anaesthetic should not be required for any of these procedures?

Question 18:

Do you agree that there should not be any restriction on the age of the animal at which these procedures are permitted?

Question 19:

Are there any additional methods of identifying animals which may fall within the definition of "mutilation" and which you think ought to be exempted from the ban?

Other Management Procedures

Proposals

The draft SI contains exemptions for the following, which are already subject to regulation (and for which the existing regulation will be consolidated):

Dehorning of cattle, sheep and goats
Disbudding of cattle, sheep and goats
Supernumerary teat removal from cattle
Tusk trimming of boars
Tooth reduction of pigs
Nose ringing of pigs
Tail docking of pigs and sheep
Beak trimming of poultry
Desnooding turkeys
Detoeing domestic fowl and turkeys
Dubbing domestic fowl
Removal of antlers that are not in velvet from farmed (and equivalent 'kept') deer
Dew claw removal in dogs
Taking scales from fish for the purposes of age determination or fish stock management

The following, which are not currently subject to regulation, are also included in the draft SI for exemption:

Nose ringing of cattle
Wing pinioning of non-farmed birds
Laparoscopy of birds and reptiles

Changes to the status quo proposed

The rules on antler removal would be extended to cover deer that are kept for purposes other than farming (for example, for aesthetic appeal in a Deer Park).

The procedures the Government are aware of which are currently legal but will now be caught by the ban, are:

Anal sacs, removal
Branding, corrosive chemical or hot
Castration of a male bird by a method involving surgery
Claws, removal (except dew-claws)
Corrosive acids, application to the skin
Devoicing (birds, dogs, horses, mules)

Docking of tails⁷
Ear cropping (dogs)
Ear implants (dogs)
Mules-type operations (sheep), i.e. removal of folds of skin from around the vulva and tail
Penetration of nasal septum of bird: fitting any appliance which has the object or effect of limiting vision to a bird by a method that involves the penetration or other mutilation of the nasal septum⁸
Prosthetic testicles, insertion in dogs
Spaying (cattle and pigs)
Tail nicking (dogs/horses)
Tortoise shells, drilling
Tooth cutting (sheep): so extensive as to leave the pulp cavity exposed, but not falling within the definition of grinding
Tooth clipping/removal (sheep)
Tooth cutting/removal (dogs and monkeys)
Venom ducts and venom apparatus, ligation/removal
Wings, dewinging

Reasons for proposals - Currently regulated management procedures

Disbudding of calves, lambs and kids

Current Welfare Codes and legislation⁹ recognise the distress this procedure may cause and it should not be carried out unless it is necessary for herd welfare, or it would cause pain or distress not to. No change has been proposed in the draft SI.

However, the Government would particularly welcome views on the following:

- * should the disbudding of calves of 7 days old or under by chemical cauterisation be banned?
- * what is the preferred method of disbudding goats – chemical cauterisation or thermocautery? Why?
- * is it necessary to maintain an exemption for the disbudding of lambs? Is this procedure still performed, and if so, why is it necessary?

Dehorning of cattle, sheep and goats

Current Welfare Codes and legislation¹⁰ recognise the distress these procedures may cause. Dehorning goats and sheep can only be carried out by a veterinary surgeon. It should not be carried out unless it is necessary for herd welfare, or it would cause pain or distress not to. No change to this is being recommended in the draft SI.

⁷ Species other than horses, which are already covered by the Docking and Nicking of Horses Act 1949; and pigs and sheep (in which it is permitted).

⁸ Already banned in birds kept on agricultural land under the Welfare of Livestock (Prohibited Operations) Regulations 1982, regulation 3(j). This ban will be extended to non-agricultural land, and end the debate as to whether game rearing amounts to 'agricultural purposes' and for the purposes of the existing ban.

⁹ Veterinary Surgeons Act 1966 Schedule 3 Part II (i)

¹⁰ Veterinary Surgeons Act 1966 Schedule 3 Part II (i)

Supernumerary teat removal from cattle

Current Welfare Codes and legislation set out the conditions under which this procedure can be performed in order to minimise suffering. No change to the existing requirements is proposed under this SI.

Tusk trimming of boars

EC law considers this an acceptable procedure to minimise the risk of injury to other animals and handlers, and the SI does not propose an alteration to the current legislation¹¹. The RCVS also regard this as acceptable.

Note: as EC law recognises the need for this procedure, the Government is not consulting on whether it should be banned.

Tooth reduction of pigs

Routine tooth reduction in piglets is prohibited under the Welfare of Farmed Animals Regulations (England) Regulations 2000¹², Schedule 6 paragraph 21, but exemptions are allowed where there is on-farm evidence that injury to other animals has occurred as a result of biting, and other environmental enrichment measures have been taken.

Note: as this very narrow exemption stems from EC law the Government is not consulting on whether it should be altered.

Nose ringing of pigs

This procedure is performed to prevent the activity of rooting; inserting a ring assists the outdoor keeping of pigs, in circumstances where they would otherwise have to be kept indoors. While preventing rooting is a restriction on pigs expressing their natural behaviour, the Government considers that it is in their greater welfare interests to have freedom to roam outdoors. In accordance with EC law and current legislation¹³, it will not be permitted in pigs kept continuously indoors, where there is no welfare benefit obtained by ringing.

Note: as this very narrow exemption stems from EC law the Government is not consulting on whether it should be altered.

Tail docking of pigs and sheep

Tail docking of sheep and lambs is acknowledged as a preventative hygienic procedure which does contribute to the potential welfare of such sheep by helping prevent fly-strike and faecal soiling.

¹¹ The Welfare of Farmed Animals (England)(Amendment) Regulations 2000, SI 2003/299, Sch 6, paragraph 24 – implementing Commission Directive 2001/93/EC of 9 November 2001, amending Directive 91/630/EEC laying down minimum standards for the protection of pigs.

¹² The Welfare of Farmed Animals (England)(Amendment) Regulations 2000, Sch 6, paragraph 21.

¹³ The Welfare of Farmed Animals (England)(Amendment) Regulations 2000, Sch 6, paragraph 25.

Routine tail-docking in piglets is prohibited under the Welfare of Farmed Animals (England) Regulations 2000, Schedule 6 paragraphs 21 and 23, but the procedure is allowed where there is on-farm evidence that tail-biting has occurred as a result of failure to dock, and other environmental enrichment measures have been taken.

Note: as these very narrow exemptions stem from EC law the Government is not consulting on whether they should be altered.

Beak trimming of poultry

While it is acknowledged that beak trimming may cause suffering to poultry, farming practices mean that it may in some cases be necessary to reduce the suffering caused by other behaviours, were the procedure not carried out.

Note: Feather pecking and cannibalism are problems acknowledged by EC law¹⁴ as necessitating beak trimming in some circumstances. To that end, the proposed exemption does not alter the current legislation¹⁵. The Government is not consulting on this element of the draft SI.

Views are welcome, however, on the use of infra-red lasers as instruments for performing beak trimming.

An exemption for beak trimming is proposed in the draft SI:

- in farmed poultry
- so long as it is performed using a suitable instrument, any subsequent haemorrhage of the beak is arrested by cauterisation, and it is performed either (a) on both lower and upper beaks and not more than one third of each is removed, or (b) on the upper beak only and not more than one third is removed
- in the case of laying hens kept in flocks of 350 or more, until 31 December 2010:
 - * permitted in birds under 10 days old
 - * permitted in birds aged 10 days or over where procedure considered necessary by a veterinary surgeon to prevent feather pecking and cannibalism, and other measures to improve environmental conditions have been taken
- in the case of laying hens kept in flocks of 350 or more, after 31 December 2010:
 - * permitted where procedure considered necessary by a veterinary surgeon to prevent feather pecking and cannibalism, and other measures to improve environmental conditions have been taken

¹⁴ Council Directive 1999/74/EC of 19 July 1999 laying down minimum standards for the protection of laying hens; and Proposal for a European Council Directive 9606/05 laying down minimum rules for the protection of chickens kept for meat production

¹⁵ Welfare of Farmed Animals (England) Regulations 2000, SI 2000/1870

In addition, mutilations including beak trimming are being considered as part of the negotiations on the proposed European Council Directive 9606/05 laying down minimum rules for the protection of chickens kept for meat production, which the UK hopes will be agreed in 2006.

Desnooding turkeys

This involves the removal of the snood from the male turkey in order to prevent cannibalism in intensively stocked turkeys. While it is not permitted under the RSPCA Turkey Freedom Food scheme, it is permitted under current Welfare Codes¹⁶. When the procedure is conducted according to current guidelines to minimise distress the Government considers there may be an overall welfare benefit for turkeys where cannibalism might otherwise occur.

Detoeing domestic fowl

Removing the last joint of the inside toes of male breeding birds is acknowledged to be effective in avoiding injury to hens during mating, and is considered acceptable by the RCVS. It is currently permitted under the Welfare Codes¹⁷.

Dubbing domestic fowl

The current Welfare Codes state the removal of all or part of the male comb (or dubbing) offers few, if any, welfare advantages in comparison with the disturbance and pain likely to be caused and should be avoided. The Government has included an exemption from this procedure in the draft SI to reflect current legislation; however, we would welcome views during consultation on whether this practice should continue.

Antler removal from farmed deer

It is currently illegal, under the Removal of Antlers in Velvet (Anaesthetics) Order 1980¹⁸, as read with the Protection of Animals (Anaesthetics) Act 1954, to perform this procedure in the UK when the antlers are 'in velvet'. On grounds of safety for farmers and other animals, it may be performed when the stags rub off the velvet and the antler no longer consists of living tissue. At this point removing it does not cause any pain - it has been compared to cutting toe-nails. Distress from being held while the procedure is being performed can be minimised by good handling. In the UK, there are approximately 36,000 farmed deer of which an estimated 1,162 are males

¹⁶ Adopted under the Agriculture (Miscellaneous Provisions) Act 1968. These codes do not lay down statutory requirements. However, livestock farmers and employers are required by law to ensure that all those attending to their livestock are familiar with, and have access to, the relevant codes. Although the main aim of the welfare codes is to encourage farmers to adopt high standards of husbandry, they may also be used to back up legislative requirements. Where a person is charged under the Agriculture (Miscellaneous Provisions) Act 1968 with causing unnecessary pain or unnecessary distress to farm livestock, failure to comply with the provisions of a welfare code may be relied on by the prosecution to establish guilt.

¹⁷ Ibid.

¹⁸ The Removal of Antlers in Velvet (Anaesthetics) Order 1980, SI 1980/685

which are likely to be subject to management techniques such as antler removal¹⁹.

Dew claw removal in dogs

The RCVS have indicated that, while removal of dew claws is not appropriate where done for the convenience of the owner, there may be cases where the dew claws protrude and are likely to be torn and damaged by normal activity. This makes their removal justifiable, and even advisable.

The Government does not consider removing dew claws for purely cosmetic reasons, such as complying with a breed standard, justifiable²⁰. However, it does not consider it possible to stipulate – and effectively enforce - exactly the circumstances in which this procedure should be performed. The draft SI will therefore leave this decision to the discretion of those performing the procedure. The requirement in draft regulation 3(d) would prevent it being performed for cosmetic purposes, as this would not be in accordance with good practice.

Taking scales from fish for the purposes of age determination or fish stock management

This procedure is used by the Environment Agency to monitor growth rates of fish. Fish scales can be used, like rings on tree trunks, to determine age. This can then be related to the weight and length of the fish to monitor growth rates in a particular area. This method of age determination is used in preference to removing the otolith (fish 'ear'), which involves destroying the fish. It is the method of least intervention. Scales are naturally lost and replaced, and any scales removed are replaced quickly by the fish they are taken from.

The Government considers it essential, for conservation reasons, that the growth rates of fish can be monitored, and as the least invasive means of achieving this, scale removal is considered justified.

Question 20:

- (a) Do you agree that disbudding should be exempt from the mutilations ban?
- (b) Do you agree that it should be permitted in cattle, sheep and goats?

¹⁹ Deer figures from http://www.bdfa.co.uk/DeerFarming_facts.htm and "Current and Future Deer Management Options" (Defra 2003) – Estimated range of number of male deer from ratio of between 30 to 40 females per male

²⁰ The Kennel Club recommend the removal of dew claws as part of the breed standard for a number of breeds. They estimated in a response to Defra on an informal consultation in September 2005 that in 2004 30% of puppies registered with the Kennel Club had their dew claws removed, which means that this procedure affects at least 77,000 puppies each year, excluding those not registered with the Kennel Club

(c) If you agree that it should be permitted in sheep as well as cattle and goats, why do you consider the procedure necessary?

(d) Do you agree that anaesthetic should not be required?

(e) Do you agree that disbudding calves of 7 days old or under by chemical cauterisation should be banned?

(f) What is the preferred method of disbudding goats – chemical cauterisation or thermocautery? Why?

Question 21:

(a) Do you agree that dehorning should be exempt from the mutilations ban?

(b) Do you agree that it should be permitted in cattle, sheep and goats?

(c) Do you agree that it should only be permitted when anaesthetic is used?

Question 22:

(a) Do you agree that supernumerary teat removal should be exempt from the mutilations ban?

(b) Do you agree that it should only be permitted when anaesthetic is used, if the animal is over three months old?

Question 23:

Do you agree that an infra red laser is a suitable instrument for beak trimming poultry?

Question 24:

(a) Do you agree that desnooding turkeys should be exempt from the mutilations ban?

(b) Do you agree that it should only be permitted when anaesthetic is used, if the bird is over 21 days old?

Question 25:

(a) Do you agree that detoeing should be exempt from the mutilations ban?

(b) Do you agree that it should only be permitted on domestic fowl and turkeys?

(c) Do you agree that if the bird is over 3 days old it should only be permitted if:

(i) anaesthetic is used?

(ii) it is considered necessary by a veterinary surgeon?

Question 26:

- (a) Do you agree that dubbing should be exempt from the mutilations ban?
- (b) Do you agree that if the bird is over 3 days old it should only be permitted if:
 - (i) anaesthetic is used?
 - (ii) it is considered necessary by a veterinary surgeon?

Question 27:

- (a) Do you agree that removal of antlers that are not in velvet should be exempt from the mutilations ban?
- (b) Do you agree that it should only be permitted on farmed (or equivalent "kept") deer?
 - (c) Do you agree that it should only be permitted if:
 - (i) the antlers are not in velvet?
 - (ii) only the non-sensitive part is removed?

Question 28:

- (a) Do you agree that removing dogs' dew claws should be exempt from the mutilations ban?

Question 29

Do you agree that taking scales from fish for the purposes of age determination or fish stock management should be exempt from the mutilations ban?

Reasons for proposals - Currently unregulated management procedures

Nose ringing of cattle

This procedure is performed in the interests of safety, to help handle potentially dangerous animals. The Government considers it should be included in the draft SI on grounds of safe animal management practice.

Wing pinioning of non-farmed poultry

The exemption for wing pinioning of non-farmed poultry would allow non-indigenous species (mainly waterfowl), that would not otherwise visit the UK, to continue to be kept in captive populations in zoological and private

collections. Conservation of such species is promoted by these zoological and private collections. Non-native species are required to be effectively contained under the Wildlife and Countryside Act 1981 and wing-pinioning is considered the most effective and least stressful method of flight restraint.

The procedure allows these birds to be kept in near natural conditions, so providing a welfare benefit compared to other methods of restraint. Many of these species are unsuited to fully enclosed aviaries which limit the scope of the environment that can be provided and, for larger waterfowl, their lack of manoeuvrability in a relatively small area may lead to injury should they attempt to fly. Feather clipping would require catching the birds annually, causing stress and leading to potential injury, particularly in long legged and long necked birds.

An exemption is supported by the British and Irish Association of Zoos and Aquaria (BIAZA), the Wildfowl and Wetland Trust, and the British Waterfowl Association. For birds other than poultry, the RCVS considers pinioning an acceptable procedure on practical grounds.

Wing pinioning of farmed birds is currently prohibited²¹, and the Government does not propose to remove this ban.

Laparoscopy

The non-therapeutic use of laparoscopy is a surgical sexing procedure, particularly in birds. Other methods of sexing involve DNA testing, which can be much more expensive, and requires specialist facilities. While Government considers it likely that DNA testing will ultimately overtake laparoscopy as a method of sexing, it does not consider that DNA testing is, as yet, a viable replacement sufficient that laparoscopy can be banned. The Government welcomes views on whether it is necessary to exempt laparoscopy on species other than birds and reptiles.

Question 30:

- (a) Do you agree that nose ringing cattle should be exempt from the mutilations ban?
- (b) Do you agree that it should be permitted without anaesthetic?

Question 31:

- (a) Do you agree that wing pinioning should be exempt from the mutilations ban?
- (b) Do you agree that it should only be permitted on non-farmed birds?
- (c) Do you agree that it should only be permitted if anaesthetic is used, if the bird is over 10 days old?

Question 32:

- (a) Do you agree that laparoscopy should be exempt from the mutilations ban?
- (b) Do you agree that it should only be permitted on birds and reptiles?
- (c) Do you agree that it should only be permitted if anaesthetic is used?

Question 33:

- (a) Are there any additional management procedures which may fall within the definition of "mutilation" and which you think ought to be exempted from the ban?
- (b) In particular, do you agree that the following should not be exempted:
 - (i) Anal sacs, removal
 - (ii) Branding, corrosive chemical or hot
 - (iii) Castration of a male bird by a method involving surgery
 - (iv) Claws, removal (except dew-claws)
 - (v) Corrosive acids, application to the skin
 - (vi) Devoicing (birds, dogs, horses, mules)
 - (vii) Docking of tails (species other than pigs, sheep and certified working dogs)
 - (viii) Ear cropping (dogs)
 - (ix) Ear implants (dogs)
 - (x) Mules-type operations (sheep), i.e. removal of folds of skin from around the vulva and tail
 - (xi) Penetration or other mutilation of nasal septum of bird.
 - (xiii) Prosthetic testicles, insertion in dogs
 - (xiv) Spaying (cattle and pigs)
 - (xv) Tail nicking (dogs/horses)
 - (xvi) Tortoise shells, drilling
 - (xvii) Tooth cutting (sheep): so extensive as to leave the pulp cavity exposed, but not falling within the definition of grinding
 - (xviii) Tooth clipping/removal (sheep)
 - (xix) Tooth cutting/removal (dogs and monkeys)
 - (xx) Venom ducts and venom apparatus, ligation/removal
 - (xxi) Wings, dewinging

The Docking of Working Dogs' Tails (England) Regulations

For ease of reference, this document will consider the issues in the same order as the draft Regulations.

Interpretation

Draft regulation 2 contains definitions for the purposes of the SI.

Question 34:

Do you agree with these definitions proposed for the draft Regulation? If not, what would your suggestions be and why ?

Certification and Evidential requirements

Proposal

Draft Regulation 3 details the requirements that need to be met before a veterinary surgeon may certify a dog as one that is permitted to have its tail docked (and therefore dock it), and list the evidential requirements that the vet must be shown as proof of meeting the requirements.

Reasons for proposal

The House of Commons held a free vote on the issue of tail docking and considered three options: keeping the status quo; a total ban on tail docking; and a ban with an exemption on working dogs. MPs voted for a ban on tail docking with an exemption for dogs that work.

Draft regulation 3 simply defines which dogs will be exempted: those of a particular type; that are not more than 5 days old; and that are likely to work (as proven by specified evidence). These outline requirements are detailed in the Act, and as such, have already been agreed by Parliament and are outside the scope of this consultation.

Certification requirements – for the veterinary surgeon.

Draft regulation 3 permits a veterinary surgeon to certify that in respect of any dog presented to him for tail docking:

- he is satisfied that the dam of the dog is of a type specified [in Schedule 1 of the draft regulations - see also Question 36 later in this document];
- he reasonably believes that the dog is not more than 5 days old; and
- the owner of the dog (or another person whom he reasonably believes to be representing the owner) has shown him the evidence specified in the draft regulation – please see details of this below.

Evidence Requirements

The owner of the dog (or a person representing the owner) must show evidence to the veterinary surgeon that the puppy presented as an exemption is likely to work. Draft Regulation 3(2) proposes the following evidence will need to be seen by the veterinary surgeon before the dog can be certified:

- (i) where the dog is presented for certification on behalf of one of Her Majesty's armed forces, armed forces identification;

- (ii) where the dog is presented for certification on behalf of a body providing an emergency rescue service, emergency rescue identification;
- (iii) where the dog is presented for certification on behalf of a police authority, police identification;
- (iv) evidence that the owner of the dog, or an agent or employee of the owner most likely to be using the dog, will be using the dog for work in connection with lawful pest control;
- (v) a current shotgun or firearm certificate issued to the owner of the dog or to the agent or employee of the owner most likely to be using the dog for the lawful shooting of animals; or
- (vi) a letter from a gamekeeper, a land-occupier (or his agent), a person with shooting rights, a shoot organiser, a club official, a person representing the National Working Terrier Organisation, or a person engaged in lawful pest control, stating that the breeder of the dog to be docked is known to him and that dogs bred by that breeder have been used (as the case may be) on his land, or in his shoot, or for pest control.

Question 35:

- a). Do you agree that the dam of the dog must be seen?
- b). (i). Do you agree that this evidence is necessary to show a dog is likely to work?
- (ii). Do you agree that this evidence is sufficient to show that a dog is likely to work?
- (iii). If not, what alternative evidence could be provided by the dogs owner?

Identification Requirements

The Act requires that all certified dogs are identified before they are 3 months of age in section 6(8)(b). Draft regulation 4 will detail how a specified legally docked dog can be marked with identification.

Proposal

A permanent mark of identification is necessary to be able to prove that the dog has been legally tail docked, and provide a link to the certificate. This will allow a future owner of the dog to prove that the dog is a certified working dog, under the Act and the proposed Regulations.

We consider that microchipping is the only way of uniquely and permanently identifying a legally tail docked dog. However, due to the size of the puppy, and possible risk of infection, this procedure may need to be carried out at a different time from the docking of the tail (microchipping is commonly carried out during other routine veterinary visits early in the dogs life, such as rabies and other vaccinations). Veterinary surgeons and veterinary nurses under the supervision of a veterinary surgeon will be able to carry out the microchipping. We specify that ISO (International Standards Organisation) Standard microchips meeting specification 11784 or Annex A to 11785 are used (and believe that these are the standards universally used in England and Wales). If the microchip does not conform to either of these ISO Standards, it may not be able to be read by a universal microchip reader, so this enables the microchip number to be read successfully. Schedule 2 contains a full draft certificate which will include a section to enter the microchip information.

Question 36:

Do you agree microchipping is the best way of ensuring the unique identification of the certified dogs? If not, what would you propose and why?

Specified Types of Dog

The Act requires the type of dog suitable to undertake relevant work as specified in the Act to be set out in regulations. The draft regulations will propose the following types, listed in Schedule 1:

Hunt point retrievers of the following types—

Braque Italian;
Brittany;
German long-haired pointer;
German short-haired pointer;
German wire-haired pointer;
Hungarian vizsla;
Hungarian wire-haired vizsla;
Italian Spinone;
Spanish Water-dog;
Weimaraner.

Spaniels (of any type or combination of types).

Terriers (of any type or combination of types).

Question 37:

- (a). Do you agree that the list of types covers all dogs that both work and that would benefit from prophylactic docking?
- (b). If not, what evidence do you have if you wish to add or remove a type?

Form of Certificate

The draft regulation will include a suggested certificate format to include the above information in the form of a schedule.

Question 38:

Does the proposed certificate provide all necessary information?

Annex A: Draft Mutilations (Permitted Procedures) (England) Regulations

DRAFT STATUTORY INSTRUMENTS

2007 No. 0000

ANIMALS, ENGLAND

[ANIMAL WELFARE]

The Mutilations (Permitted Procedures) (England) Regulations 2007

Made - - - - 2007

Coming into force in accordance with regulation 1(b)

The Secretary of State is, in relation to England, the appropriate national authority for the purpose of exercising the powers conferred by section [5(4)] of the Animal Welfare Act 2006⁽²²⁾, and makes the following Regulations in exercise of those powers.

In accordance with section [5(5)] of that Act, the Secretary of State has consulted those persons appearing to him to represent interests with which these Regulations are concerned as he considered appropriate.

In accordance with section [61(2)] of that Act, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

Title, commencement and application

2. These Regulations—

- (a) may be cited as the Mutilations (Permitted Procedures) (England) Regulations 2007;
- (b) come into force on [the day after the day on which they are made];
- (c) apply in England only.

Interpretation

3. In these Regulations—

“the Act” means the Animal Welfare Act 2006;

“cattle” means all animals of the bovine species including bison and buffalo;

“desnooding” means removal of a turkey’s snood;

⁽²²⁾ 2006 c.[XX]. The appropriate national authority is defined in section [62(1)] of the Act.

“disbudding” means removal of the horn bud of a bovine animal of up to six months of age, goat or lamb;

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

“dubbing” means removal of the comb of a domestic fowl;

“farmed” means, in relation to an animal, bred or kept for the production of food, wool or skin or for other farming purposes;

“horses” includes ponies, asses, donkeys, jennets and mules;

“in velvet” means, in relation to the antlers of a deer, until the velvet is frayed and the greater part of it has been shed;

“laying hen” means a hen of the species *gallus gallus* which has reached laying maturity and is kept for production of eggs not intended for hatching;

“poultry” means domestic fowls, turkeys, geese, ducks, guinea fowls, quails, pheasants and partridges;

“prohibited procedure” means a procedure which involves interference with the sensitive tissues or bone structure of an animal, otherwise than for the purpose of its medical treatment;

“suitable instrument” means in relation to any procedure, an instrument that is in a fit state of repair and has been designed, or is of a kind commonly used, for the purpose of performing that procedure.

Exceptions to the prohibition on mutilations

4. Section 5(1) and (2) of the Act does not apply to a procedure listed in Schedule 1, providing it is carried out—

- (a) in accordance with any relevant requirement in Schedules 2 to 9;
- (b) in such a way as to minimise the pain and suffering it causes to the animal;
- (c) in hygienic conditions; and
- (d) in accordance with good practice.

Performance of prohibited procedures in an emergency

5.—○ Section 5(1) and (2) of the Act does not apply where a prohibited procedure is carried out in an emergency for the purpose of saving the life or relieving the pain of the protected animal.

(1) Any procedure carried out under paragraph (1) must be carried out in accordance with regulation 3, so far as this is practicable in all of the circumstances.

Persons who may carry out permitted procedures

6.—○ Any procedure permitted under regulation 3 may only be carried out by a veterinary surgeon or any other person permitted to carry out that procedure under the Veterinary Surgeons Act 1966⁽²³⁾ or the Veterinary Surgeons (Exemptions) Order 1962⁽²⁴⁾.

(1) The restriction in paragraph (1) does not apply to tail docking, or castration, of pigs aged 7 days or under.

⁽²³⁾ 1966 c.36, amended by S.I. 2002/1479; there are other amending instruments but none is relevant.

⁽²⁴⁾ S.I. 1962/2557, amended by S.I. 1982/1627; there are other amending instruments but none is relevant.

Revocations

7. Schedule 10 (revocations) has effect.

Date

Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

SCHEDULE 1
PERMITTED PROCEDURES

Regulation 3

Cattle

Identification Procedures:

- Ear clipping.
- Ear notching.
- Ear tagging.
- Freeze branding.
- Micro-chipping.
- Tattooing.
- Other methods of identification involving a mutilation required by law.

Procedures for the Control of Reproduction:

- Castration.
- Embryo collection or transfer by a surgical method.
- Ovum transplantation, including ovum collection, by a surgical method.
- Vasectomy.

Other Management Procedures:

- Dehorning.
- Disbudding.
- Nose ringing.
- Removal of supernumerary teats.

Pigs

Identification Procedures:

- Ear clipping.
- Ear notching.
- Ear tagging.
- Micro-chipping.

Tattooing.

Other methods of identification involving a mutilation required by law.

Procedures for the Control of Reproduction:

Castration.

Vasectomy.

Other Management Procedures:

Nose ringing.

Tail docking.

Tooth reduction.

Tusk trimming.

Birds

Identification Procedures:

Micro-chipping.

Other methods of identification involving a mutilation required by law.

Other Management Procedures:

Beak trimming of poultry.

Desnooding.

De-toeing of domestic fowl and turkeys.

Dubbing.

Laparoscopy.

Wing pinioning.

Sheep

Identification Procedures:

Ear clipping.

Ear notching.

Ear tagging.

Micro-chipping.

Tattooing.

Other methods of identification involving a mutilation required by law.

Procedures for the Control of Reproduction:

Castration.

Vasectomy.

Other Management Procedures:

Dehorning.

Disbudding.

Removal of the insensitive tip of the horn.

Tail docking.

Goats

Identification Procedures:

- Ear clipping.
- Ear notching.
- Ear tagging.
- Micro-chipping.
- Tattooing.
- Other methods of identification involving a mutilation required by law.

Procedures for the Control of Reproduction:

- Castration.
- Vasectomy.

Other Management Procedures:

- Dehorning.
- Disbudding.
- Removal of the insensitive tip of the horn.

Horses

Identification Procedures:

- Freeze branding.
- Hot branding.
- Micro-chipping.
- Tattooing.
- Other methods of identification involving a mutilation required by law.

Procedures for the Control of Reproduction:

- Castration.
- Vasectomy.

Deer

Identification Procedures:

- Ear clipping.
- Ear notching.
- Ear tagging.
- Micro-chipping.
- Tattooing.
- Other methods of identification involving a mutilation required by law.

Procedures for the Control of Reproduction:

- Castration.
- Vasectomy.

Other Management Procedures:

Removal of antlers that are not in velvet.

Other species

Identification Procedures:

- Ear clipping.
- Ear notching.
- Ear tipping of feral cats.
- Insertion of subcutaneous tracking devices.
- Tagging.
- Chemical branding of fish.
- Freeze branding of fish.
- Micro-chipping.
- Removal or perforation of parts of fishes' fins, adipose fins or fin rays.
- Tattooing.
- Other methods of identification involving a mutilation required by law.

Procedures for the Control of Reproduction:

- Castration.
- Spaying.
- Vasectomy.

Other Management Procedures:

- Laparoscopy of reptiles.
- Removal of the dew claws of dogs.
- Removal of fish scales.

SCHEDULE 2

Regulation 3

CATTLE: REQUIREMENTS WHEN CARRYING OUT CERTAIN PERMITTED PROCEDURES

When carried out on cattle, a procedure listed below must be carried out in accordance with the condition or conditions specified for that procedure.

1. Castration

When the method used is the application of a rubber ring or other device to constrict the flow of blood to the scrotum, the procedure may only be carried out on an animal aged 7 days or under.

When any other method is used, an anaesthetic must be administered where the animal is aged 2 months or over.

2. Embryo collection or transfer by a surgical method

An anaesthetic must be administered, and the procedure must be carried out in accordance with the conditions set out in the Veterinary Surgery (Epidural Anaesthesia) Order 1992⁽²⁵⁾.

3. Ovum transplantation, including ovum collection, by a surgical method

An anaesthetic must be administered.

4. Vasectomy

An anaesthetic must be administered.

5. Dehorning

An anaesthetic must be administered.

6. Disbudding

When the method used is chemical cauterisation, the procedure may only be carried out on an animal aged 7 days or under.

When any other method is used an anaesthetic must be administered.

7. Removal of supernumerary teats

An anaesthetic must be administered where the animal is aged 3 months or over.

SCHEDULE 3

Regulation 3

PIGS: REQUIREMENTS WHEN CARRYING OUT CERTAIN PERMITTED PROCEDURES

When carried out on a pig, a procedure listed below must be carried out in accordance with the condition or conditions specified for that procedure.

1. Castration

The method used must not involve the tearing of tissues.

An anaesthetic and additional prolonged analgesia must be administered where the animal is aged over 7 days.

2. Vasectomy

⁽²⁵⁾ S.I. 1992/696.

An anaesthetic must be administered.

3. Nose ringing

The procedure may only be carried out on an animal that is not kept continuously in an indoor husbandry system.

4. Tail docking

The procedure may only be carried out where measures to improve environmental conditions or management systems have first been taken to prevent tail-biting, but there is still evidence to show that injury to pigs' tails has occurred.

The method used must involve quick and complete severance of the tail.

An anaesthetic and additional prolonged analgesia must be administered where the animal is aged over 7 days.

5. Tooth reduction

The procedure may only be carried out on an animal that is aged 7 days or under.

The procedure must consist only of the uniform reduction of the corner teeth by either grinding or clipping so as to leave an intact smooth surface.

The procedure may only be carried out where measures to improve environmental conditions or management systems have first been taken to prevent tail-biting and other vices, but there is still evidence to show that injury to sows' teats or to other pigs' ears or tails by biting has occurred.

6. Tusk trimming

The procedure may only be carried out where there is evidence to show that it is necessary to prevent injury to other animals or for safety reasons.

SCHEDULE 4

Regulation 3

BIRDS: REQUIREMENTS WHEN CARRYING OUT CERTAIN PERMITTED PROCEDURES

When carried out on a bird, a procedure listed below must be carried out in accordance with the condition or conditions specified for that procedure.

1. Beak trimming of poultry other than laying hens

The procedure must be performed using a suitable instrument, and on—

- (a) both the lower and upper beaks, with not more than one third of each removed, or
- (b) the upper beak only, with not more than one third removed.

Any subsequent haemorrhage from the beak must be arrested by cauterisation.

2. Beak trimming of poultry that are laying hens

The procedure may only be performed on laying hens kept in flocks of 350 or more.

The procedure must be performed using a suitable instrument, and on—

- (a) both the lower and upper beaks, with not more than one third of each removed, or
- (b) the upper beak only, with not more than one third removed.

Any subsequent haemorrhage from the beak must be arrested by cauterisation.

Before 1st January 2011 the procedure may not be carried out on a laying hen that is aged 10 days or over unless measures to improve environmental conditions or management systems have first been taken to prevent feather-pecking and cannibalism, and a veterinary surgeon still considers the procedure necessary to prevent them.

On or after 1st January 2011 the procedure may not be carried out on any laying hen unless measures to improve environmental conditions or management systems have first been taken to prevent feather-pecking and cannibalism, and a veterinary surgeon still considers the procedure necessary to prevent them.

3. Desnooding

Where the turkey is aged 21 days or under, the procedure may be carried out either by manual pinching-out or with a suitable instrument.

4. De-toeing of domestic fowl and turkeys

The procedure may not be carried out on a bird that is aged over 3 days unless a veterinary surgeon considers that it is necessary that it be carried out.

An anaesthetic must be administered where the bird is aged over 3 days.

5. Dubbing

The procedure may not be carried out on a bird that is aged over 3 days unless a veterinary surgeon considers that it is necessary that it be carried out.

An anaesthetic must be administered where the bird is aged over 3 days.

6. Laparoscopy

An anaesthetic must be administered.

7. Wing pinioning

The procedure may not be carried out on farmed birds.

An anaesthetic must be administered where the bird is aged 10 days or over.

SCHEDULE 5

Regulation 3

SHEEP: REQUIREMENTS WHEN CARRYING OUT CERTAIN PERMITTED PROCEDURES

When carried out on a sheep, a procedure listed below must be carried out in accordance with the condition or conditions specified for that procedure.

1. Castration

When the method used is the application of a rubber ring or other device to constrict the flow of blood to the scrotum, the procedure may only be carried out on an animal aged 7 days or under.

When any other method is used, an anaesthetic must be administered where the animal is aged 3 months or over.

2. Vasectomy

An anaesthetic must be administered.

3. Dehorning

An anaesthetic must be administered.

4. Tail docking

In all cases, enough of the tail must be retained to cover the vulva of a female animal or the anus of a male animal.

When the method used is the application of a rubber ring or other device to constrict the flow of blood to the tail, the procedure may only be carried out on an animal aged 7 days or under.

When any other method is used an anaesthetic must be administered.

SCHEDULE 6

Regulation 3

GOATS: REQUIREMENTS WHEN CARRYING OUT CERTAIN PERMITTED PROCEDURES

When carried out on a goat, a procedure listed below must be carried out in accordance with the condition or conditions specified for that procedure.

1. Castration

When the method used is the application of a rubber ring or other device to constrict the flow of blood to the scrotum, the procedure may only be carried out on an animal aged 7 days or under.

When any other method is used, an anaesthetic must be administered where the animal is aged 2 months or over.

2. Vasectomy

An anaesthetic must be administered.

3. Dehorning

An anaesthetic must be administered.

SCHEDULE 7

Regulation 3

HORSES: REQUIREMENTS WHEN CARRYING OUT CERTAIN PERMITTED PROCEDURES

When carried out on horse, a procedure listed below must be carried out in accordance with the condition or conditions specified for that procedure.

1. Castration

An anaesthetic must be administered.

2. Vasectomy

An anaesthetic must be administered.

SCHEDULE 8

Regulation 3

DEER: REQUIREMENTS WHEN CARRYING OUT CERTAIN PERMITTED PROCEDURES

When carried out on a deer, a procedure listed below must be carried out in accordance with the condition or conditions specified for that procedure.

1. Castration

An anaesthetic must be administered.

2. Vasectomy

An anaesthetic must be administered.

3. Removal of antlers that are not in velvet

The procedure may only be carried out on farmed deer or deer that are kept on land in the same manner as if they were farmed deer.

Only the non-sensitive part of the antler may be removed.

SCHEDULE 9

Regulation 3

OTHER SPECIES: REQUIREMENTS WHEN CARRYING OUT CERTAIN PERMITTED PROCEDURES

When carried out on an animal other than one dealt with in Schedule 2, 3, 4, 5, 6, 7 or 8, a procedure listed below must be carried out in accordance with the condition or conditions specified for that procedure.

1. Ear tipping of feral cats

An anaesthetic must be administered.

2. Castration

An anaesthetic must be administered.

3. Spaying

An anaesthetic must be administered.

4. Vasectomy

An anaesthetic must be administered.

5. Laparoscopy of reptiles

An anaesthetic must be administered.

6. Removal of the dew claws of dogs

An anaesthetic must be administered except where the dog is a puppy whose eyes have not yet opened.

7. Removal of fish scales

The procedure may only be carried out for the purposes of age determination or stock management.

SCHEDULE 10 REVOCATIONS

Regulation 6

<i>Instrument revoked</i>	<i>References</i>	<i>Extent of Revocation</i>
The Docking of Pigs (Use of Anaesthetics) Order 1974	S.I. 1974/798	The whole Order in so far as it applies in England.
The Removal of Antlers in Velvet (Anaesthetics) Order 1980	S.I. 1980/685	The whole Order in so far as it applies in England.
The Protection of Animals (Anaesthetics) Act 1954 (Amendment) Order 1982	S.I. 1982/1626	The whole Order in so far as it applies in England.
The Welfare of Livestock (Prohibited Operations) Regulations 1982	S.I. 1982/1884	All the Regulations in so far as they apply in England.
The Welfare of Livestock (Prohibited Operations) (Amendment) Regulations 1987	S.I. 1987/114	All the Regulations in so far as they apply in England.
The Welfare of Farmed Animals (England) Regulations 2000	S.I. 2000/1870	Paragraphs 8 and 9 of Schedule 3D ⁽²⁶⁾ ; Paragraphs 19 to 26 of Schedule 6 ⁽²⁷⁾
The Protection of Animals (Anaesthetics) (Amendment) (No.2) (England) Order 2003	S.I. 2003/1328	The whole Order

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of powers conferred by section 5(4) of the Animal Welfare Act 2006 (c.XX).

Section 5 (1) and (2) of the Act makes it an offence to carry out or, in specified circumstances, to cause another person to carry out, a prohibited procedure on a

⁽²⁶⁾ Schedule 3D was inserted by S.I. 2002/1646 (at regulation 2(8)).

⁽²⁷⁾ Schedule 6 was substituted by S.I. 2003/299 (at regulation 3(4)).

protected animal; a prohibited procedure is one which involves interference with the sensitive tissues or bone structure of the animal, otherwise than for the purpose of its medical treatment (see section 5(3) of the Act).

These Regulations specify the procedures to which the offences in sections 5(1) and 5(2) do not apply. Depending upon the animals to which they are to be applied, such procedures may include those for the purposes of identification (such as ear clipping), those for the control of reproduction (such as castration and vasectomy) and those for other purposes (such as tail docking) (*Schedule 1*). For certain of these procedures, and again depending upon the animals in respect of which they are permitted, Schedules 2 to 9 apply restrictions to the carrying out of the procedure (such as specifying a required age for the animal, or requiring the administration of an anaesthetic).

[A regulatory impact assessment has been prepared and placed in the library of each House of Parliament; copies can be obtained from the Animal Welfare Division, Department for Environment, Food and Rural Affairs, 1A Page Street, London SW1P 4PQ.]

Annex B: Draft The Docking of Working Dogs' Tails (England) Regulations

DRAFT STATUTORY INSTRUMENTS

2007 No. 0000

ANIMALS, ENGLAND

[ANIMAL WELFARE]

The Docking of Working Dogs' Tails (England) Regulations 2007

Made - - - - 2007

Coming into force in accordance with regulation 1(b)

The Secretary of State is, in relation to England, the appropriate national authority for the purpose of exercising the powers conferred by section 6(4), 6(6) and 6(8) of the Animal Welfare Act 2006⁽²⁸⁾, and makes the following Regulations in exercise of those powers.

In accordance with section 6(15) of that Act, the Secretary of State has consulted those persons appearing to him to represent interests with which these Regulations are concerned as he considered appropriate.

In accordance with section 61(2) of that Act, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

Title, commencement and application

8. These Regulations—

- (a) may be cited as the Docking of Working Dogs' Tails (England) Regulations 2007;
- (b) come into force on the day after the day on which they are made;
- (c) apply in England only.

Interpretation

9. In these Regulations—

“armed forces identification” means evidence that the person presenting the identification is a member of one of Her Majesty’s armed forces, or is otherwise employed by or contracted to work for one of Her Majesty’s armed forces;

“club official” means a person who serves a shoot club in an official capacity;

⁽²⁸⁾ 2006 c.45. The appropriate national authority is defined in section 62(1) of the Act.

“emergency rescue identification” means evidence that the person presenting the identification is a member of a body providing an emergency rescue service;

“gamekeeper” means a person engaged by a person with shooting rights to preserve, protect or rear animals and to manage or assist with the management of a shoot;

“land-occupier” means a person who occupies land where a shoot takes place;

“person with shooting rights” means an owner or lessee of shooting rights;

“police identification” means evidence that the person presenting the identification is a police officer, or is otherwise employed by or contracted to work for a police authority;

“shoot” means an occasion on which animals are shot for sporting purposes;

“shoot organiser” means any person responsible for the overall organisation of a shoot;

“specified type of work” means work in connection with law enforcement, activities of Her Majesty’s armed forces, emergency rescue, lawful pest control, or the lawful shooting of animals.

Certification requirements

10.—○ A veterinary surgeon may certify that a dog is likely to be used for a specified type of work and is a dog of a specified type, where—

- (a) he is satisfied that the dam of the dog is of one or more of the types specified in Schedule 1;
- (b) he reasonably believes that the dog is not more than 5 days old; and
- (c) the owner of the dog, or another person whom he reasonably believes to be representing the owner, has shown him the evidence specified in paragraph (2).

(2) The evidence is—

- (a) the dam of the dog;
- (b) a completed statement, signed and dated by the owner of the dog or by another person representing the owner, in paragraph 3 of a certificate in the form prescribed in Schedule 2; and
- (c) one of the following—
 - (i) where the dog is presented for certification on behalf of one of Her Majesty’s armed forces, armed forces identification;
 - (ii) where the dog is presented for certification on behalf of a body providing an emergency rescue service, emergency rescue identification;
 - (iii) where the dog is presented for certification on behalf of a police authority, police identification;
 - (iv) evidence that the owner of the dog, or an agent or employee of the owner most likely to be using the dog, will be using the dog for work in connection with lawful pest control;
 - (v) a current shotgun or firearm certificate issued to the owner of the dog, or to the agent or employee of the owner most likely to be using the dog for work in connection with the lawful shooting of animals;
 - (vi) a letter from a gamekeeper, a land-occupier (or his agent), a person with shooting rights, a shoot organiser, a club official, a person representing the National Working Terrier Organisation, or a person engaged in lawful pest control, stating that the breeder of the dog whose tail is to be docked is known to him and that dogs bred by that breeder have been used (as the case may be) on his land, or in his shoot, or for pest control.

(3) Any certification given under paragraph (1) shall be made in paragraph 1 of a certificate in the form prescribed in Schedule 2.

Identification of docked dogs

11.—○ In order to be identified as a subsection (3) dog as required by section 6(8) of the Animal Welfare Act 2006 a dog must be microchipped—

- (a) by a veterinary surgeon or a veterinary nurse acting under the supervision of a veterinary surgeon; and
- (b) using a microchip which complies with either ISO standard 11784 or Annex A to ISO standard 11785 of the International Standards Organisation's standards for microchips⁽²⁹⁾.

(2) A dog may only be microchipped after the owner or a person representing him has made a signed and dated statement in paragraph 4 of a certificate in the form prescribed in Schedule 2.

(3) The veterinary surgeon who carries out or supervises the microchipping must certify that fact in paragraph 2 of a certificate in the form prescribed in Schedule 2.

Date

Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

SCHEDULE 1

Regulation 3(1)(a)

Specified Types of Dog

Hunt point retrievers of the following types—

Braque Italian;
Brittany;
German long-haired pointer;
German short-haired pointer;
German wire-haired pointer;
Hungarian vizsla;
Hungarian wire-haired vizsla;
Italian Spinone;
Spanish Water-dog;
Weimaraner.

Spaniels (of any type or combination of types).

⁽²⁹⁾ ISO Central Secretariat, International Organization for Standardization (ISO), 1 rue de Varembé, Case postale 56, CH-1211, Geneva 20, Switzerland.

Terriers (of any type or combination of types).

SCHEDULE 2 Regulations 3(2) and (3) and 4(2) and (3)

Form of Certificate

“ANIMAL WELFARE ACT 2006, section 6

The Docking of Working Dogs' Tails (England) Regulations 2007

To be completed by the veterinary surgeon signing below—

1. I, [INSERT NAME], confirm that I have seen the following evidence required by the Docking of Working Dogs' Tails (England) Regulations 2007 to show that the dog whose tail is to be docked (“the dog”) by me on [INSERT DATE] is likely to be used for work in connection with a specified type of work and is of one or more of the types specified at paragraph 5 below:

the dam of the dog;

the statement annexed at paragraph 3 of this certificate, signed and dated by the owner of the dog or by a person whom I reasonably believe to be representing the owner; and

one of the following—

armed forces identification;

emergency rescue identification;

police identification;

evidence that the owner of the dog, or an agent or employee of the owner most likely to be using the dog, will be using the dog for work in connection with lawful pest control;

a current shotgun or firearm certificate issued to the owner of the dog, or to the agent or employee of the owner most likely to be using the dog for the lawful shooting of animals;

a letter from a gamekeeper, a land-occupier (or his agent), a person with shooting rights, a shoot organiser, a club official, a person representing the National Working Terrier Organisation, or a person engaged in lawful pest control, stating that the breeder of the dog whose tail is to be docked is known to him and that dogs bred by that breeder have been used on his land, or in his shoot, or for pest control.

Signature of Veterinary Surgeon:

Name:

Address of Veterinary Surgeon's Practice:

To be completed by the veterinary surgeon signing below on the day on which microchipping of the dog takes place—

2. I [INSERT NAME] confirm that on [INSERT DATE] either I have, or a veterinary nurse acting under my supervision has, inserted a microchip into a dog:

whose tail I have docked on the same day.*

that the owner or a person whom I reasonably believe to be representing the owner has presented to me as the dog whose tail was docked on [DATE] by the veterinary surgeon who signed the certificate at paragraph 1 above.*

*(*delete whichever is inapplicable)*

The microchip reading is [INSERT MICROCHIP READING].

Signature of Veterinary Surgeon:

Name:

Address of Veterinary Surgeon's Practice:

Statement to be completed by the owner of the dog or by a person authorised by the owner to represent him—

3. I, [INSERT NAME], confirm that:

I am [authorised to represent]* the owner of the dog whose tail is to be docked on [INSERT DATE] by the veterinary surgeon signing the certificate at paragraph 1 above.

I confirm that the dam of the dog is of one or more of the types specified at paragraph 5.

I confirm that the dog was born on [INSERT DATE].

I confirm that it is intended that the dog be:

used in a specified type of work.*

sold for use in a specified type of work.*

*(*delete whichever is inapplicable)*

I confirm that to the best of my knowledge and belief the evidence I am showing to obtain this certificate is true and accurate.

I am aware that it is an offence knowingly to give false information to a veterinary surgeon in connection with the giving of a certificate for the purposes of section 6 of the Animal Welfare Act 2006.

Signature of owner of the dog or of the person authorised to represent him:

Name

Address

4. I, [INSERT NAME], confirm that:

I am [authorised to represent]* the owner of the dog to be microchipped on [INSERT DATE] by, or under the supervision of, the veterinary surgeon signing the certificate at paragraph 2 above.

I confirm that to the best of my knowledge and belief the dog I am presenting for microchipping today is the same dog whose tail was docked on [DATE] and in relation to which paragraphs 1 and 3 of this certificate were completed.

I am aware that it is an offence knowingly to give false information to a veterinary surgeon in connection with the giving of a certificate for the purposes of section 6 of the Animal Welfare Act 2006.

Signature of owner of the dog or of the person authorised to represent him:

Name

Address

5. Specified Types of Dog

Hunt point retrievers of the following types—

Braque Italian;
Brittany;
German long-haired pointer;
German short-haired pointer;
German wire-haired pointer;
Hungarian vizsla;
Hungarian wire-haired vizsla;
Italian Spinone;
Spanish Water-dog;
Weimaraner.

Spaniels (of any type or combination of types).

Terriers (of any type or combination of types).”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of powers conferred by section 6 of the Animal Welfare Act 2006 (c.45) under which working dogs may be exempted by regulations from the prohibition upon the removal of the whole or any part of a dog's tail, otherwise than for the purpose of its medical treatment.

Regulation 3 sets out the requirements to be observed before a veterinary surgeon may certify that the dog is a working dog. Regulation 3(1)(a) and Schedule 1 specify the types of dog that are capable of being certified, and regulation 3(1)(c) and (2) describes the further evidence (concerning the intention that the dog will be used for certain work) that is required to be shown to a veterinary surgeon in order to obtain such a certificate. Regulation 4 prescribes the way in which a dog whose tail is docked is to be identified by microchipping. Schedule 2 prescribes the form in which the certificate is to be given.

A regulatory impact assessment has been prepared for these Regulations and placed in the library of each House of Parliament; copies can be obtained from the Animal Welfare Division, Department for Environment, Food and Rural Affairs, 1A Page Street, London SW1P 4PQ.

Annex C: Draft Regulatory Impact Assessment – Mutilations (Permitted Procedures) (England) Regulations

*A draft statutory instrument to support the effective implementation
of the ban on mutilations contained in Section 5 of the Animal
Welfare Act 2006.*

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Purpose and intended effect

Objective

1. The Mutilations Regulation would create a list of exemptions from the ban on mutilations contained in Section 5 of the Animal Welfare Act 2006, under the powers created in Section 5(4). This Section and the Regulation would be largely a consolidation measure in relation to farm animals, and would bring the protection of companion animals into line with that already afforded to farm animals.

Background

The Animal Welfare Act

2. The Act was introduced into the House of Commons on 13 October 2005 and received its Second Reading on 10 January 2006. It was considered by Standing Committee between 17 – 26 January, and Report Stage took place on 14 March. It was then brought to the House of Lords on 15 March, received a Second Reading on 18 April, was considered in Grand Committee on 22 and 23 May and 15 June, had Report Stage on 23 October and received a Third Reading on 1 November. The House of Commons considered the Lords Amendments on 6 November and Royal Assent was granted on 8 November. A copy of the Act and its Explanatory Notes can be downloaded from the Parliament website at:
<http://www.publications.parliament.uk/pa/pabills.htm>
or both are available from the Stationery Office.
3. A copy of the Regulatory Impact Assessment which accompanied the Act can be downloaded from the Defra website at:
<http://defraweb/animalh/welfare/bill/pdf/ria.pdf>
4. Section 5 of the Act defines “mutilations” as procedures which involve interference with the sensitive tissues or bone structures of an animal, other than for the purpose of its medical treatment.
5. The Animal Welfare Act 2006 seeks to promote the responsible ownership of animals, and to encourage those who have responsibility for animals to discharge those responsibilities with due care.

6. It is considered inconsistent with the aims and purposes of the Animal Welfare Act 2006 to permit owners to mutilate their animals, or to have them mutilated. The Act therefore contains a general prohibition on mutilations. Note that procedures performed for medical purposes are outside the definition of a "prohibited procedure" as specified in the Act and therefore unaffected by the ban.
7. The Government is aware, however, of certain procedures which fall within the definition of a "prohibited procedure" which may be justified on the basis that, notwithstanding the short term pain or suffering inflicted, an overall welfare benefit is obtained through performing them e.g. spaying, or there are good management reasons for performing them e.g. nose ringing cattle. The purpose of the statutory instrument, therefore, is to create exemptions from the general ban on mutilations in Section 5 of the Act, so as to allow such procedures to continue.

Docking of dogs' tails

8. Section 5(6) of the Act explicitly excludes the docking of dogs' tails from the scope of the mutilations ban. This is dealt with separately in section 6 and is therefore outside the scope of this regulation.

Farming and Other Legislation

9. Many of the procedures which will fall within the definition of 'prohibited procedure' as specified in the Act are past or present farming practices, which are already regulated. The substantive content of many of them is not open to alteration, as it stems from EU Law. The Government could not consider deregulating these procedures without risking non-compliance with the UK's European obligations. However, Section 5 of the Act, plus these regulations, present an opportunity to consolidate the provisions affecting these procedures into one place. There will also be benefits that are near impossible to cost, such as reduced costs through time familiarising with legislation, and certainty for farmers and other businesses.

10. The requirements that can be consolidated are currently contained in:

Docking and Nicking of Horses Act 1949 c.70;

Protection of Animals (Anaesthetics) Act 1954 c.46,

Protection of Animals (Anaesthetics) Act 1964 c.39,

Docking of Pigs (Use of Anaesthetics) Order 1974 SI No. 798;

The Removal of Antlers in Velvet (Anaesthetics) Order 1980 SI No. 685;

Protection of Animals (Anaesthetics) Act 1954 (Amendment) Order 1982, SI No. 1626,
Protection of Animals (Anaesthetics) Act 1954 (Amendment) (No.2) (England) Order 2003, SI No. 1328;

Welfare of Livestock (Prohibited Operations) Regulations 1982 SI No. 1884;
Welfare of Livestock (Prohibited Operations) (Amendment) Regulations 1987 SI No. 114;

The Welfare of Farmed Animals (England) Regulations 2000 (SI 2000/1870) [schedule 3D, paragraphs 8 and 9; and schedule 6, paragraphs 19-26].

The Welfare of Farmed Animals (England) (Amendment) Regulations 2002 SI No. 1646,

The Welfare of Farmed Animals (England) (Amendment) Regulations 2003 SI No. 299

The Veterinary Surgeons Act 1966

11. The Government also recognises that the question of whether a procedure should be exempt from the mutilations ban may be very closely linked to a requirement as to who performs it.
12. DEFRA is currently undertaking a separate, and much wider, review of the Veterinary Surgeons Act (VSA). In view of this, we have decided that it would be inappropriate to stipulate, in this statutory instrument, that certain procedures are exempted only if performed by veterinary surgeon, as it would pre-empt the wider consultations on the VSA that are taking place.
13. Very limited content of the draft SI therefore relates to who can perform the listed procedures (see paragraphs 64 – 66 below).

Territorial Extent

14. The Animal Welfare Act applies to England and Wales only.
15. This SI will apply to England only. Section 5 of the Act empowers the Welsh Assembly to create its own SI to exempt procedures from the general prohibition.
16. Scotland has introduced its own Animal Health and Welfare (Scotland) Act 2006. Section 18 of this Act contains a ban on mutilations, similar to that in Section 5 of the English/Welsh Act. The Scots will produce their own SI to exempt procedures from the ban in Section 18.

Options

OPTION 1: Do nothing

17. This would involve not bringing Section 5 of the Animal Welfare Act into force, and doing nothing at all in this area.
18. Some level of government intervention in this area is essential. This option would be entirely inconsistent with the provisions and spirit of the Animal Welfare Act. The inclusion of some form of regulation of mutilations specifically was supported in consultation on the Animal Welfare Act, and has subsequently been supported by the EFRA Select Committee who conducted pre-legislative scrutiny of the Act.
19. As well as being inconsistent with the spirit of the Act, there would be the risk of legal uncertainty arising were some explicit provision not included, because of the potential for mutilations to be considered within the scope of the cruelty offence in Section 4. It might be possible to interpret a procedure which interfered with the sensitive tissues or bone structure of an animal for non-medical reasons as 'causing unnecessary suffering' within the definition of the cruelty offence, or as failing to meet an animal's need to be free from pain and injury contrary to Section 8(2)(e). This would leave those procedures currently performed for long term welfare reasons with an uncertain status in law – they would be dependent on the court's interpretation of 'unnecessary'.
20. We are aware that some of the procedures listed are controversial; we would anticipate that at least three procedures would be tested in court under the Act's other provisions. The cost implications of this could be:

Source of cost	Cost per incidence (estimated upper limit)	Anticipated number of incidences	Potential total cost
Test cases in court	£150,000 (RSPCA cases with high legal fees can exceed £100,000. Assume also that Government and stakeholders would wish to	3	£450,000

	intervene, and that may be appealed)		
Potential inability to continue performing practices that courts interpret as prohibited	£500 (based on 2.5 hours per animal, and vet fees of £200 per hour – BVA informal estimate)	4,000 Assume: - more than 20,000 animals usually subject to procedure, - 20% of them will suffer injury if it is not performed - 1/3 test cases would be ruled contrary to cruelty or welfare offence in Act	£2,000,000

These costs are upper limit estimates and based on possible controversial cases. We would welcome detailed comments on costs during consultation.

21. As balanced against these costs, the Government cannot see any benefits that would derive from doing nothing, either in financial terms, or in terms of gaining any animal welfare benefit.
22. This approach would also be inconsistent with the Act's aim to consolidate and simplify existing legislation as it would create legal uncertainty and leave various different pieces of legislation dealing with permitted mutilations still in place.
23. Overall, this option has been considered undesirable, and has been rejected.

OPTION 2: Create a general ban on mutilations, and include exemptions in an SI

24. This is the preferred approach, and has been taken by Section 5 of the Act together with this draft SI.

- It expresses a general condemnation of procedures which cause unnecessary suffering, whilst permitting those procedures which are considered necessary to achieve an overall welfare benefit for the animal to continue.
- It would catch those cases which might not be contemplated in producing a positive list of procedures to ban; see Appendix A, RSPCA case studies.
- It would facilitate a consolidation of legislation which is currently very disparate.
- It would create certainty as to the operation of the cruelty or welfare offence in relation to any of the banned/exempted procedures.
- It would be a flexible solution that allowed further exemptions to be introduced simply and effectively if in future evidence supported such a move.

Costs and benefits

25. As part of the policy development process, officials have tried to obtain data from relevant interest groups that might help in analysing the costs and benefits that could arise from the proposed approach (ie: from Option 2). In general, advice has been that there will be negligible costs. However, very little specific data has been forthcoming.
26. Additional information, on both costs and benefits of the proposal, would be welcome during the public consultation process.

Benefits

Animal welfare benefits from mutilations ban

27. In the field of animal welfare, benefits are inevitably difficult to quantify, as there is no hard data which would allow a cost assessment to be developed, and welfare benefits are not usually capable of financial quantification. However, in general:

- the prohibition would prevent those procedures which cause unnecessary suffering to animals while having no overall benefit. The welfare benefits obtained would be the same here as those obtained by criminalising animal cruelty.

RSPCA 2004 cruelty statistics	Estimated percentage of those cases which could have been treated as 'mutilations' were the Act available	Estimated welfare benefit from Section 5
109,985 investigated cases 1665 of which resulted in cruelty convictions against 868 defendants	5% (based on RSPCA estimate of less than 10%)	More effective remedy available against 43 animal owners per year

- Section 5 does not require proof of suffering. This has benefits in enforcing the ban where suffering is difficult to establish, and pre-empts arguments about whether suffering is involved if anaesthetic is used.

Range of cost of prosecuting for	Average amount per	Estimated number of	Total cost saving to

causing 'unnecessary suffering'	case spent on establishing 'unnecessary suffering'	cases to be prosecuted under Section 5	prosecutors from having Section 5 available
£500 - £100,000 (RSPCA estimate. The upper range represents many animals in single case, or animals difficult to house, or complex legal arguments to be made)	£200 (average vet fees £200 per hour – BVA informal estimate)	83 (based on 1665 convictions for cruelty under 1911 Act, and assumption that 5% of these were for 'mutilating' an animal)	£16,600 (assuming 83 prosecutions per year, and saving of £200 per case)

- many outdated procedures which are considered unacceptable by the RCVS, for example, devoicing cockerels, would be banned. The RSPCA notes that the benefits of banning outdated practices will (i) mark out clear standards of acceptable behaviour; (ii) produce clarity; (iii) avoid the ethical debate and (iv) simplify enforcement.

Animal welfare benefits from producing Exemption SI

- permitting procedures which do result in an overall welfare benefit permits the continued reduction in animal suffering. In 2004, 24% of people who gave to charity donated to an animal charity³⁰, showing that people do value the objective of reduced animal suffering in accordance with the Animal Welfare Act 2006. Donations to some of the best-known animal charities in 2004 totalled roughly £167 million³¹. Furthermore, thousands of people a year volunteer their time to work for animal charities. For the Cats Protection charity alone, volunteers give over six million hours a year to cat care. Given the objectives of these charities to reduce animal suffering, it might therefore be concluded that exempting procedures such as neutering and microchipping will not only reduce animal suffering, but that a high value is attached to this reduced suffering.

Legal and enforcement benefits

³⁰ http://www.bacs.co.uk/BPSL/presscentre/pressreleases/2005/pr_20050323.htm

³¹ Accounts available via the Charity Commission. Charities included: RSPCA, Blue Cross, Dogs Trust, Battersea Dogs and Cats Home, Hearing Dogs for Deaf People, National Animal Welfare Trust, The British Horse Society.

- legal certainty and clarity over the status of mutilations will not only improve welfare through facilitating increased compliance but will also bring benefits from easier enforcement.

Businesses, including Small Businesses

28. **Vets** would, in principle, lose the income from performing those procedures which are to be banned but which are not already banned by other legislation.

29. However, since 1987 the Royal College of Veterinary Surgeons has considered these procedures unacceptable. Their guidance has advised that veterinary surgeons should not undertake these procedures, other than for therapeutic purposes, and while their guidance is non-binding we understand these procedures to have largely died out. The British Veterinary Association anticipate that the cost implications for the veterinary profession of banning such procedures would be “minimal”.

Average annual turnover of veterinary surgeon	Estimated percentage of turnover generated by performing the procedures to be caught by the ban	Estimated annual turnover loss per vet	Maximum turnover loss across profession	Anticipated turnover loss across profession
£163,906 (2005 BVA/SPVS ANVAL report, includes all practice types)	Maximum 0.001% (BVA informal estimate)	£163.91	£1,721,055 Based on annual cost per practice x 10,500 estimated vets in general practice in England (RCVS Annual Report 2005)	£172, 105.50 Based on assumption that no more than 10% of the profession are willing to perform these procedures.

30. Vets would also need to spend time familiarising themselves with the new legislation, to ensure they understand which procedures they are

no longer permitted to perform for non-therapeutic reasons. If the time taken to familiarise themselves with the legislation would otherwise have been used as working time in their practice, then the value of the time lost can be calculated, as shown in the table below. However, this is not an absolute economic loss and may even be an overall benefit, as animal welfare is directly improved by vets complying with the Act and SI.

Estimated time to familiarise with legislation	Average value of vets' time	Number of vets in general practice in England	Anticipated value of time lost across profession
2.5 hours (BVA informal estimate)	£200 per hour (BVA informal estimate)	10,500 (RCVS Annual Report 2005)	£5,250,000

31. **Farmers** will benefit from a consolidation of the law on these procedures. The law will be found in one place, and the burden on them to consider separate pieces of legislation will be removed. (see 'Background – Other Legislation' in paragraphs 8 -9). There should not be any additional cost implications from the SI itself, as the procedures are banned/exempted in accordance with current farming practices. No widely used farming procedure is banned, and no procedure that has died out is exempted. We have seen no evidence to indicate a need for a change in the status quo, other than the fact that disparate provisions could be made more accessible in a single instrument. Also, many of the existing provisions governing farming procedures stem from the implementation of EU obligations, and cannot therefore be altered by this Regulation.

32. We would welcome views from farmers on the possible cost implications of this Regulation for them. In particular, we would welcome estimates of how long it will take them to familiarise themselves with the new legislation, and what the value of this lost time might be. This cost would be balanced against the benefits to farmers of greater clarification of legislation because of consolidation under the Act which is likely to save them both time and effort in the longer term.

33. There should be no cost implications for **other businesses**, including:
 Zoos, including waterfowl collections
 Shooting clubs etc
 Horse breed societies
 Commons land societies and bodies
 Commons land farmers / animal owners

Where their practices include the performance of procedures within the definition of 'prohibited procedure', they have been consulted and have produced evidence which justifies the inclusion of those procedures on the SI permitted procedures list.

34. **Private individuals** should not be financially affected by the proposals. Where they would potentially incur costs through taking animals, injured by not having been subject to the procedure, to a vet, or through having those animals destroyed, that procedure has been included on the permitted procedures list.

Enforcers

35. Enforcers will also benefit from having all the provisions relating to these procedures in one place. Current guidance given to the SVS on the existing regulation of certain procedures will be utilised in developing guidance on this SI: it will be expanded to cover companion animals for those enforcers who are concerned with companion animals, and updated where necessary. Under this proposal, guidance on any procedure, conducted on any species, can be found in one place.
36. The **SVS**, who deal with farm animal welfare, should not incur increased costs under this SI as the proposals do not alter the position under current farming law. Inspections will be conducted on the same basis as they are now. Additional training will be funded by DEFRA, if it proves necessary.
37. **Local authorities** should not incur increased costs either. Neither Section 5 of the Animal Welfare Act 2006, nor this SI, require that local authorities conduct routine inspections on licensed premises to check for compliance. There are therefore no additional inspection costs. All local authority inspectors would be expected to do was act on a mutilation case which came to their attention during other inspections; for example, if an inspector visited a pet shop and found puppies for sale with cropped ears.

Cost of enforcing existing <u>cruelty</u> legislation where mutilations occur	Anticipated cost of Section 5 of the Act/mutilations SI	Anticipated incidence	Anticipated additional enforcement cost for local authorities
£2,000 - £7,000	£1,800 - £6,800	1 every 20 years	

Prosecuting under 1911 Act (based on LACORS assessment: £2000 where plead guilty, £7000 where plead not guilty. About 1/3 plead not guilty)	Assume average cost of case the same, though slightly reduced as not necessary to prove suffering	(LACORS informal estimate, that one 1911 Act prosecution by local authorities every year. Assume 5% of prosecutions could be brought under Section 5)	£90 - £340 per year
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NB these figures relate to cost of bringing prosecution under Protection of Animals Act 1911. Current Government data storage procedures mean there are no figures held for the costs of bringing prosecutions that involve WOFAR violations. They are assumed, however, to be similar to the costs of a cruelty prosecution.

38. Local authorities will not incur training costs as centralised training on the Act and the mutilations SI has been organised by DEFRA.
39. The **police** would not be expected to take an enforcement role in Section 5 of the Act or this SI (except in exceptional cases; for example, if they were prosecuting a person for fighting dogs, they might also bring a charge under Section 5 if the dogs had cropped ears). No enforcement costs are anticipated.
40. There may also be additional costs incurred by the **RSPCA** in their capacity as private enforcers. These should be transitory, as the prohibited procedures should die out. They have noted that they consider the benefits outweigh any possible costs, again illustrating a high monetary value associated with preventing animal suffering. Furthermore the RSCPA would also benefit from the clarification in law an easier enforcement. In particular, they told us that "It is unlikely that statutory prohibition of this type of mutilation will add significantly to the RSPCA's workload or costs; it would, however, broaden options regarding the charging of offenders and would remove the need to prove suffering which may be of particular relevance if dealing with very young animals that are subject to mutilation."

Cost of enforcing existing cruelty legislation	Anticipated cost of Section 5 of the Act/mutilations SI	Anticipated incidence	Anticipated additional enforcement cost for RSPCA
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where mutilations occur			
£500 - £100,000 (RSPCA figures where upper range represents many animals in single case, or animals difficult to house, which is unusual)	£200 - £99,500 Prosecuting (assuming costs reduced by not having to prove suffering)	0 Additional prosecutions – these would be brought under cruelty section if not under mutilations section 403 Familiarising with legislation (323 inspectors + 80 solicitors)	£0 Prosecuting

41. We would welcome estimates from the RSPCA of how long it will take them to familiarise themselves with the new legislation, and what the value of this lost time might be. This cost would be balanced against the benefits to them of greater clarification of legislation because of consolidation under the Act which is likely to save them both time and effort in the longer term.

Summary of Anticipated Costs/Benefits

42. Overall:

	BENEFIT	COSTS
	Welfare Benefit of prosecuting under Section 5 rather than cruelty offence: Potential savings of £16,600 Benefit of <u>legal certainty around operation of welfare and cruelty offence</u> in relation to these procedures:	<u>Vets loss of business</u> in relation to banned procedures £172,105.50 <u>Additional enforcement costs:</u> Local authorities £90-£340 RSPCA £0 SVS £0 Police £0 Additional <u>time familiarising</u>

	<p>-Potential cost saved £2,450,000 (see paragraph 25)</p> <p><u>Reduced animal suffering</u> through people working with animals complying with the Act</p>	<p>self with new legislation Vets £5,250,000 Local authorities £0 SVS £0 RSPCA – views welcome Farmers – views welcome</p>
MAXIMUM TOTAL IMPACT	<p>£2,466,600</p> <p>+ suffering of unnecessarily mutilated animals avoided</p>	<p>Costs £172,445.50</p> <p>Value of time lost £5,250,000</p>

Small Firms Impact Test

- 43. We have consulted the RSPCA, who consider the general ban on mutilations in the Act “appropriate”. They do not consider any cost implications to be significant.**
- 44. We have consulted the BVA, who represent veterinary surgeons and their practices. They have indicated that there will only be minimal cost implications for the veterinary profession from a ban on procedures currently considered unethical.**
- 45. Although we have received little feedback from the farming community we have been careful to preserve the status quo with regard to current farming practices. We therefore do not anticipate any increased cost to farmers.**
- 46. On the basis of this feedback, the Small Business Service (SBS) agree that the impact on small businesses should not be significant or complex. However, we would welcome views during the public consultation.**

Competition assessment

- 47. We do not consider this measure likely to have any effect on competition.**
- 48. Potentially, the following markets could be affected:**
- farming
 - livestock sales

- veterinary surgery
- anaesthetic production

49. There should be no competition impact on **farmers** or the **livestock market**; most of the farming practices banned by Section 5 or exempted by this SI are already regulated by EU Law, and so the procedures are regulated equally across Europe. There will be no competitive disadvantage that stems from being subject to English animal welfare laws.

50. In theory there is a slight possibility that the Regulation could affect the **veterinary market** structure by altering the demand for certain veterinary services. However, this would constitute a very slight change to only one small element of the services veterinarians provide and is not considered significant. Similarly with the **anaesthetic market** there could be a very minimal change in the demand for anaesthetic. But, equally, this is not considered likely to be of a scale to distort or adversely affect the market or affect competition within those markets.

Legal Aid Impact Assessment

51. We do not anticipate that any additional prosecutions will be brought under section 5. We would estimated that perhaps 5% of cases which were previously prosecuted under the offence of causing unnecessary suffering will be brought under section 5 in future instead. However, this will not mean additional prosecutions, merely the same number of prosecutions using different charge.

52. We therefore do not expect any legal aid impact.

53. However, if 5% of the additional 100 cases that we expect under the Animal Welfare Act 2006 involve charges being brought under section 5, the legal aid impact of that section, together with this SI, would be:

Possible additional cases	Average cost of case in magistrates	Cost of appeals to Crown Court	Range of possible impact on legal aid*	Expected impact on legal aid
<p>5</p> <p>(based on assumption in RIA to the Animal Welfare Act 2006 there might be 100 additional prosecutions once the Act enters force, and 5% of these might be under section 5)</p>	<p>£503 guilty plea</p> <p>£899 - £1,864 defending</p>	<p>£778 against conviction</p> <p>£312 against sentence</p>	<p>Min £2,515</p> <p>(based on all pleading guilty, no appeals)</p> <p>Max £8,467.50</p> <p>(based on all defending, and all appealing convictions)</p>	<p>£4,804.85</p> <p>(based on assumption:</p> <p>50% will defend</p> <p>6% will appeal</p> <p>ie same assumptions as in main RIA to Animal Welfare Act 2006)</p>

* Assumptions made throughout:
 Section 5 cases involving multiple defendants will be unlikely

Enforcement, sanctions and monitoring

54. The proposal, both Section 5 and the SI, will be **enforced** in accordance with the provisions of the Animal Welfare Act 2006. This means that 'inspectors' will be the SVS and local authorities, who will not have an obligation to conduct routine inspections to check compliance but who will report cases as they become aware of them. In addition, as the Animal Welfare Act 2006 is a 'common informers' Act, under which anyone can bring a case, the general public, the RSPCA, and other bodies will also have a role to play in enforcing the provisions.
55. **Sanctions** will also be in line with the provisions of the Animal Welfare Act 2006.
56. **Monitoring** of SVS reports, prosecution figures, and RSPCA reports, which Defra has access to, will be done in order to review the operation of the ban on mutilations. We would expect to see a number of prosecutions initially, followed by a drop in numbers, indicating that the message has filtered through effectively and that practices have changed accordingly.
57. There are also proposals for an enforcement database, to be held and managed by Defra, to support the implementation of the Animal Welfare Act 2006 as a whole. Once this database is developed and set up the figures gathered on mutilations could be stored there, and the efficacy of this SI monitored more efficiently. (Details of the database proposal can be found in the RIA attached to the Act)

Declaration and publication

I have read the regulatory impact assessment and I am satisfied that the benefits justify the costs

Signed

November 2006

**Ben Bradshaw, Minister for Local Environment, Marine and
Animal Welfare, DEFRA.**

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APPENDIX A

RSPCA National Case Studies

Custodial Sentence For Man Who Cut Ears Off His Puppy

Tottenham, London

Inspector Louise Mead

A man who cut the ears off his Staffordshire bull terrier puppy with a knife was sentenced to 42 days in custody and banned from keeping any animal for 10 years.

Engin Karaaslan, 19, of Kessock Close, Tottenham, admitted causing unnecessary suffering to the five-month old puppy Rocky when he appeared before Highgate Magistrates in November 2004.

The court was told that when RSPCA inspector Louise Mead arrived at Karaaslan's house on 15 July 2004 she saw the dog with blood-soaked stumps where his ears should have been. Karaaslan claimed he had cut the ears off because one of them was hanging off after a fight with another animal a week previously.

Inspector Mead took the dog to a vet and he was treated for his injuries. He was signed over into RSPCA care and has since been found a new home.

Inspector Mead said: "It is unbelievable that this young man thought it would be acceptable to cut this poor puppy's ears off. The pain must have been unbearable."

Teenager Cut Tail Off Cat

Margate, Kent

Inspector Colin Kirkwood

A teenager hacked the tail off a terrified cat and further mutilated the animal in an attack witnessed by the youngster's friends.

The 16-year-old, who cannot be named for legal reasons, attacked the young black female cat called Chalkie belonging to his father's girlfriend by putting it on a chopping board and cutting at its tail with a knife. He also admitted throwing her out of an upstairs window three times, held her against a hot electric fire, holding her down with his foot and hitting her with a broom handle, putting her in a tumble drier and hitting her with a rolling pin. He then cut some

of her hair off with hair clippers, put her in a cold bath, kicked her down the stairs, blew smoke into her face and put her in a fridge freezer.

The cat managed to get away and was found by a neighbour who took her back to her owner who took her to a vet. The youth had claimed that a dog had caused the injuries.

He admitted causing unnecessary suffering by ill-treating and cruelly terrifying when he appeared before Margate Magistrates in October 2004.

The teenager was sentenced to four months in youth custody for each offence, to run concurrently. He was also banned from keeping animals for 15 years.

Inspector Kirkwood said: "This was a barbaric act of deliberate cruelty on this poor animal. The teenager showed no remorse whatsoever for what he had done."

Greyhound suffers brutal death

Blackwood, Caerphilly

Inspector Simon Evans

In May 2004, the RSPCA received a call from a member of the public saying that a greyhound had been dumped, still alive, although it had been shot in the head and his ears had been cut off. Racing dogs have tattoos in their ears identifying his owners. It was thought the ears were cut off to protect the person responsible from being traced.

The greyhound, known as Last Hope had both ears cut off at the skull. The animal was taken to Valley Vets in Cardiff where he was put to sleep.

Despite the dog's ears being removed a huge response from members of the public and the greyhound community led the RSPCA to identify the dog's last owner. They had paid Andrew Gough £10 to put the dog down and he assured them that this would be done humanely. However during this barbarous process, Gough removed the dog's ears and punctured his skull. He then dumped the animal on Fochriw mountain whilst he was still alive. During the trial, the vet Timothy Ingham said that the animal had suffered prolonged and extreme suffering.

Andrew Gough from Blackwood, Gwent, was sentenced to six months imprisonment in December 2004 and banned from keeping all animals for life.

Inspector Simon Evans said: "This was as savage and callous an act as I've ever seen. The dog was totally incapacitated – but he was still wagging his tail. This was such a monstrous act of cruelty that Gough clearly deserved the maximum sentence of six month's imprisonment."

A later appeal was dismissed and Gough was ordered to pay an additional £250 costs. The court found it impossible to believe Gough's account in many instances and held him responsible for causing the injury and dismissed his appeal. The court said it could not conceive of a much worse case of cruelty to an animal; a bungled attempt to kill an animal, cutting it's ears off, leaving it for dead causing it to suffer for a number of hours. This was a serious attack and the sentence of six months imprisonment was appropriate.

Annex D: Draft Regulatory Impact Assessment – The Docking of Working Dogs' Tails (England) Regulations 2007

A draft statutory instrument to support the requirements for certification and identification of working dogs exempt from the ban on tail docking of dogs contained in Section 6 of the Animal Welfare Act 2006.

This document sets out the impact of the proposed Docking of Working Dogs' Tails (Certification and Identification Requirements) (England) Regulations. Parliament debated the issue of tail docking at Report stage of the Animal Welfare Bill in the House of Commons on 14 March 2006, and decided to ban all docking with exceptions for medical treatment and prophylactic docking for working dogs. The scope of the regulations is restricted to identifying which dogs are exempted from the ban on grounds of being working dogs; and specify how those dogs will be identified and certificated.

DOCKING OF DOGS' TAILS

Issue

1. Section 6 of the Animal Welfare Act bans all tail docking for cosmetic reasons, which is unnecessary and is not compatible with current welfare thinking. However, docking will still be permitted for medical reasons and for dogs which commonly work and will benefit from prophylactic docking.
2. The Docking of Working Dogs' Tails (Certification and Identification Requirements) (England) Regulations made under Section 6 (4) of the Animal Welfare Act 2006 will set out which types of dog are exempt from the ban and requires each legally docked dog to be identified by microchipping. They will also specify the contents of the certificate that the owner and vet carrying out the procedure will sign to show that they understand the conditions of carrying out the procedure, and in the vet's case, have seen proof that the dog is likely to work. Also specified are the types of proof that an owner must provide to a vet carrying out the procedure to show that the dog is likely to work. The certificate also has a second part which the vet and owner are again required to sign when the dog is microchipped.

Scale of Impact

3. In 2002 it was estimated that about 78,000 puppies were docked in the UK each year. Statistics are not available separately for England and Wales. It is also estimated that 16,000 of these in England and Wales go on to become working dogs.

Benefits

4. The benefits of the certification scheme are that it offers a safeguard against breeders and others who may try to circumvent the ban, and ensures a standardisation of the evidence that needs to be submitted

before a veterinary surgeon can dock an exempted dog's tail. It also offers protection for vets who will be at the front line of ensuring that the exemption works.

5. In addition, the regulations meet the concerns of the sporting community, police, and armed forces, who were concerned both about the welfare of their dogs and also the financial consequences of having to meet the veterinarian costs for frequent tail injury.

Consultation

6. In order to make the regulations as effective as possible, informal consultation has been carried out regularly. There will also be a formal public consultation. The list of breeds has been drawn up with the advice of the RCVS, the police, the British Association for Shooting and Conservation (BASC), and other relevant affected organisations, and so the government is confident that it covers all relevant breeds and that the certification scheme is robust. As vets will be required to sign the certificate, the content has been drawn up in conjunction with the RCVS.

Avoidance and Enforcement

7. It is intended that the ban on showing docked dogs will reduce the demand for docking in non-working dogs. However, it may be the case that there will still be demand for dogs to be docked although they do not work. In this case, an owner may attempt to provide a vet with false evidence to say that it will work. However, the nature of the evidence required should make this prohibitively difficult; and the owner will have to sign the certificate on the understanding that he commits an offence by providing false information.

Certification and Evidence

8. The RCVS have been consulted and do feel that there is enough protection for vets who carry out the procedure.
9. The evidence base has been chosen because the procedure must be carried out when the dog is no older than 5 days, and it will not be working at this age. Therefore, the owner must show proof that it is likely to work in the future. The evidence will prove that the dog will either work as a police or forces dog; or that it will be used in game shoots. Other forms of evidence were considered, but those specified are the most robust.
10. The Home Office are satisfied with the use of shotgun licences for evidential value. The proposed format of the certificate does not entail identifying which piece of evidence the vet has seen; just that some

evidence was seen. Therefore, shotgun licence holders would not be publicly identified by the certificate.

Costs and Savings

11. Potentially, this regulation has very low cost impacts, and possible savings could also be made. Assuming that any dog which will be docked under the regulations would at present be docked under the status quo, the total number of dogs being docked will fall. Nevertheless, it may be the case (rather than being docked illegally by lay people) that more dogs will be docked by vets, which will have implications for vets' time and financial costs. However, this cost will mostly be recovered by charging the owners, and there is no increase in legal requirements to have dogs docked.

12. The microchipping procedure may be carried out at a different time to the docking. This imposes an obligatory cost of the microchipping procedure on the owner of the dog, is likely to mean a cost increase burden on those owners who would not have microchipped their dogs previously. Ear tattooing was considered, but as the mark would not necessarily be unique, this would entail issuing uniquely numbered certificates and would impose an increase in administrative burden on the issuing body (the RCVS). In addition, tattoos can fade or become unreadable over time and numbers on a tattoo could also be changed by further tattooing. For these reasons, this method would be open to more avoidance. The Pet Passport Scheme uses only microchipping for identification purposes for these reasons. Overall, microchipping is the only way of uniquely and permanently identifying a legally docked dog, and will ultimately benefit owners over the dog's life (identification as a legally docked dog, but also if lost or stolen), even if imposing a short-term cost.

13. The cost of microchipping and certificating the dog is the only additional legal requirement that increases costs on owners. Based on the current average cost of microchipping being £25; and the current average cost of issuing a certificate to the dog being £30; the total cost to an owner for one dog would be £55. These are figures based on estimates provided to us by interested parties.

Estimated cost of microchipping	Estimated cost of issuing a certificate	Maximum number of dogs docked	Estimated maximum total costs to owners
£25	£30	16,000	£880,000

14. It is very likely that the costs of enforcement to the police will be minimal. It is anticipated that the overall number of prosecutions for offences under these regulations will be very small (perhaps even zero).

Border Issues

15. Scottish Ministers announced in February that they would introduce a total ban on docking by not exempting tail docking from the general ban in their Animal Health and Welfare Bill on mutilations. It will still be possible to introduce a working dog exemption in Regulations if evidence of problems later came to light.

16. However, for the foreseeable future there will be inconsistency in the approaches between England/Wales and Scotland (and possibly Wales if they decide to introduce their own regulation). However, the Scottish Act will also make it an offence to remove a dog from Scotland in order to dock its tail. This should prevent any 'docking tourism' where the difference in systems is exploited by Scots bringing their dogs to England (or Wales) to be docked.

Declaration

I have read the Regulatory Impact Assessment on the docking of dogs' tails and I am satisfied that the benefits justify the costs.

Signed.....

Date**November 2006**

Ben Bradshaw

**Minister for Local Environment, Marine and Animal Welfare,
Defra**

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Annex E: List of Stakeholders Consulted

A copy of this consultation document has been sent to all those listed below. In addition, if you are aware of any individual or organisation not included on this list who may wish to contribute then please contact Defra with their details and we shall be very happy to include them.

ADAS UK Ltd
All Party Group for Animal Welfare (Wales)
Anglo-Iberian Cropper Federation
Animal Aid
Animal Defenders (Campaigns) Ltd
Animal Health Trust
Animal Protection Agency
Animal Procedures Committee
Animals In Mind
Anti-Docking Alliance
Arab Horse Society
Associate Parliamentary Group for Animal Welfare
Association of British Riding Schools
Association of Chief of Police Officers
Association of Chief of Police Officers Police Dogs Working Group
Association of Circus Proprietors
Association of Dogs and Cats
Association for the Study of Reptilians and Amphibians
Association of British Wild Animal Keepers
Association of Lawyers for Animal Welfare
Association of Show & Agricultural Organisations
Animal Welfare Science, Ethics and Law Veterinary Association
Battersea Dogs Home
BCVA
BEVA
Bioveterinary Group Ltd
Birdcare Company - VetaFarm Europe Ltd
Birding World
Birds First
Blue Cross
Born Free Foundation
Bristol and West Working Gundog Society
British Association. for Shooting & Conservation
British Association. of Equine Societies
British Bloodstock Agency (UK) Ltd
British Camelids Ltd
British Council of Docked breeds
British Deer Society

British Dog Breeders Council
British Egg Industry Council
British Falconers' Club
British Federation of Ferret Welfares
British Goat Society
British Greyhound Racing Board
British Hamster Association
British Herpetological Society
British Horse Industry Confederation
British Horse Society
British Horseracing Board
British House Rabbit Association
British Koi-Keepers Society
British Lipizzaner Horse Society
British Palomino Society
British Partnership of Animal Sanctuaries
British Percheron Horse Society
British Pig Association
British Poultry Council
British Rabbit Council
British Rabbit Producers Association
British Show Hack, Cob & Riding Horse Association
British Show Jumping Association
British Skewbald & Piebald Association
British Small Animal Veterinary Association
British Sports Horse Registry
British Spotted Pony Society
British Veterinary Association
British Veterinary Hospitals Association
British Waterfowl Association
British Wild Boar Association
British Wildlife Management
British Wildlife Rehabilitation Council
British Veterinary Zoological Society
Brooke Hospital for Animals
Brooklands Livery Stables
Bury's Stray Cat Fund
Cage & Aviary Birds
Campaigning for Farm Animals
Canine Crisis Council
Canine Hydrotherapy Association
Canine Partners
Captive Animals Protection Society (CAPS)
Carmarthenshire Working Gundog Society
Caspian Horse Society
Caspian Pony Society
Cat Association of Britain
Cat Care Rescue

Catholic Concern for Animals
Cats Protection League
Central Committee of Fellpacks
Chinese Crested Club of GB
Circus Arts Forum
Circus Society
Coloured Horse and Pony Society UK
Companion Animal Welfare Council
Compassion in World Farming
Conservative Animal Welfare Group
Council Of Docked Breeds
Country Land & Business Association
Countryside Alliance
Countryside Council For Wales
Crosswynds
Curragh Bloodstock Agency Ltd
Dales Pony Society
Dartmoor Commoners Council
Dartmoor Livestock Protection Society
Dartmoor Pony Society
Department for Culture, Media and Sport
Defra State Veterinary Service
Devon Horse & Pony Sanctuary
Dog Breeders Association Ltd
Dogs Aid (assistance in disability)
Dogs for the Disabled
Dogs Trust
Domestic Poultry Keepers Federation
Donkey Breed Society
Donkey Sanctuary
Droitwich Ferret Welfare
EASE
Eastern Herpetological Society
East Midlands Bird Breeders Association
East Midlands Gundog Club
Endangered Dogs Defence & Rescue Ltd
English Connemara Pony Society
Equestrian Support Services
Equine Fertility Unit, Thoroughbred Breeders' Association
Essex Reptiles & Amphibians Club
Eurogroup for Animal Welfare
Exmoor Pony Society
Exotic Animal & Ophthalmic Referral Centre
Farm Animal Welfare Council
Farm Animal Welfare Network
Farmers Union of Wales
Federation of British Aquatic Societies
Federation of British Herpetologists

Federation of Companion Animal Societies
Federation of Welsh Packs
Federation of Zoological Gardens of Great Britain and Ireland
Feline Advisory Bureau
Feline Welfare
Felis Britannica
Fell Pony Society
Fight Against Animal Cruelty in Europe (UK)
Friends of Animals
Friends of British Horse Society
Friends, Families & Travellers Advice
Game Conservancy Trust
Game Farmers Association
Goat Advisory Bureau
Governing Council of the Cat Fancy
Great British Circus
Guide Dogs for the Blind Association
Gypsy Council
Highland Pony Society
Hillside Animal Sanctuary
HM Revenue and Customs
HM Prison Service
Home of Rest for Horses
Horse Society Endurance Riding Group
International Bird Register
International Fund for Animal Welfare
International Herpetological Society
International Herpetological Society
International League for the Protection of Horses
International Otter Survival Fund
International Sheep Dog Society
International Zoo Veterinary Group
Jaybeth Animal Sanctuary
Jockey Club
Junior Federation of British Herpetologists
Justice for Dogs
Kennel Club
League Against Cruel Sports
Livestock Auctioneers Association
Masters of Foxhounds Association
Masters of Minkhounds Association
Mayhew Animal Home
Meat and Livestock Commission
Metropolitan Police Wildlife Crime Unit
Milk Development Council
MOD (AMD) – RMAS
Monkey World
National Association of Private Animal Keepers

National Association of Security Dog Users
National Animal Health & Welfare Panel
National Animal Sanctuary Alliance
National Assembly for Wales
National Association of Cats & Dogs Homes
National Beef Association
National Chinchilla Society
National Council for Aviculture
National Dog Warden Association
National Equine Welfare Council
National Fancy Rat Society
National Farmers Union
National Gamekeepers Organisation
National Gundog Association
National Hamster Council
National Mouse Club
National Office of Animal Health
National Pig Association
National Pigeon Association
National Pony Society
National Sheep Association
National Assembly Welsh Agricultural Department
Norfolk Natural Horse Group
Naturewatch
New Forest Pony Breed & Cattle
New Life Parrot Rescue and Helpline Service
Norfolk & Suffolk H P R Field Trial Club
North Kent Animal Welfare
Northern Budgerigar Society
Ornamental Aquatic Trade Association Ltd
Parrot Society UK
PDSA
Peden Bloodstock Limited
Pet Advisory Committee
Pet Care Trust
Pet Health Council
Police Federation Of England And Wales Joint Central Committee
Ponies Ltd & Ponies Promotions of UK
Pony Club
Portsmouth Reptile & Amphibian Society
Poultry Club of Great Britain
PRO Dogs
Professional Koi Dealers Association
Protect our Wild Animals
Protester's Animal Info Network
Quarantine Kennel Owners Assoc
Rabbit Charity
Rabbit Welfare Association

Racehorse Thoroughbred Training Board
Racing Promoters Organisation
Raptor Rescue
Rare Breeds Survival Trust
Redwings Horse Sanctuary
Remus Horse Sanctuary
REPTA - Reptile and Exotic Pet Trade Association Ltd
Reptile Trust
Reptilian Magazine
Respect for Animals
Retired Greyhound Trust (Lincoln)
Rhondda Animal Aid
Royal Agricultural Society of England
Royal College Of Veterinary Surgeons
Royal Pigeon Racing Association
Royal Veterinary College
RSPB
RSPCA
Safewings
Save Our Seabirds Charitable Trust
Scammonden Boarding Kennels
Secretaries of Foxhounds Association
Scottish Executive Environment and Rural Affairs Department
Severn Counties Foreign & British Bird Society
Shetland Pony Stud-Book Soc
Shire Horse Society
Small Farms Association
Society for Abandoned Animals
Society for Companion Animal Studies
Society for the Protection of Aviculture
Society for the Welfare of Horses and Ponies
Solid Colours Cocker Spaniel Association
South West Equine Protection
Southern Cavy Club
Southern Counties Fife Club
Southwest Bloodstock Ltd
Sport Horse Breeding of Great Britain
Spotted Horse & Pony Society
St Tiggywinkles Wildlife Rehabilitation Centre
Standard & Trotting Horse Association of GB & Ireland
State Veterinary Service
Suffolk Horse Society
Support Dogs
Surrey Action for Equine
Swan Rescue Sanctuary
Thoroughbred Breeders Association
Thoroughbred Rehabilitation Centre
Union Of Country Sports Workers

United Kingdom Horse Shoers Union
Universities Federation for Animal Welfare
University of Aberdeen
University of Birmingham
University of Lincoln
University of London
University of Oxford
Uttlesford District Council
Verderers of the New Forest
Veteran Horse Society
Wales Opponents of Pheasant Shooting
Wandle Valley Wildlife Hospital Trust
Water Farm Goat Centre Ltd
Welsh Hawking Society
Welsh Pony & Cob Society
Wildlife & Countryside Link
Wildlife Health Services
Woolmer Cottage Stables
World Parrot Trust
World Society for the Protection of Animals - WSPA
Yorkshire Canary Club
Zoological Society of London
Zoological Society of Wales
Zoos Forum Secretariat
Zoovet International Ltd

Annex F: Consultation Criteria and Complaints

In November 2000 the Prime Minister introduced a Code of Practice on Consultation for Government Departments to follow when consulting on proposed policies. This was revised and updated in 2004.

This consultation has been produced, and run, in accordance with these.

The six criteria which a consultation has to abide by, are:

1. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.
2. Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
3. Ensure that your consultation is clear, concise and widely accessible.
4. Give feedback regarding the responses received and how the consultation process influenced the policy.
5. Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.
6. Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

If you have any comments, or complaints, that you wish to make about the process of this consultation, please contact:

Defra Consultation Co-ordinator
Room 7C
Nobel House
17 Smith Square
London SW1P 3JR

Telephone: 0207 238 5290

Email: consultation.coordinator@defra.gsi.gov.uk

Annex G: Relevant Current Legislation

Animal Welfare Act:

Animal Welfare Act available from
http://www.opsi.gov.uk/acts/acts2006/ukpga_20060045_en.pdf. The final full
Explanatory Notes will be published shortly and will be available from:
<http://www.defra.gov.uk/animalh/welfare/Act/index.htm>

A copy of the Regulatory Impact Assessment which accompanies the Act can
be downloaded from the Defra website at:
<http://defra.gov.uk/animalh/welfare/Act/pdf/ria.pdf>

Other relevant domestic legislation that will not be altered by the proposals:

Veterinary Surgeons Act 1966
Veterinary Surgery (Exemptions) Order 1962

Wildlife and Countryside Act 1981
Dangerous Wild Animals Act 1981
Control of Trade in Endangered Species (Enforcement) Regulations 1997

Welfare Codes, made under the Agriculture (Miscellaneous Provisions) Act
1968, can be downloaded from the Defra website at
<http://defra.gov.uk/animalh/welfare/farmed/on-farm.htm#welfarecodes> :

Cattle	Pigs
Sheep	Goats
Turkeys	Ducks
Laying hens	Meat chickens and breeding chickens
Farmed deer	Rabbits

European Legislation:

Council Directive 98/58/EC of 20 July 1998 concerning the protection animals
kept for farming purposes

Council Directive 1999/74/EC of 19 July 1999 laying down minimum
standards for the protection of laying hens.

Council Directive 2001/88/EC of 23 October 2001 amending Directive
91/630/EEC laying down minimum standards for the protection of pigs.

Commission Directive 2001/93/EC of 9 November 2001, amending Directive 91/630/EEC laying down minimum standards for the protection of pigs.

Proposal for a European Council Directive 9606/05 laying down minimum rules for the protection of chickens kept for meat production

European Convention on the Protection of Pet Animals 1987, ETS No 125

Legislation to be replaced:

Docking and Nicking of Horses Act 1949 c.70;

Protection of Animals (Anaesthetics) Act 1954 c.46,
Protection of Animals (Anaesthetics) Act 1964 c.39,
Docking of Pigs (Use of Anaesthetics) Order 1974 SI No. 798;
The Removal of Antlers in Velvet (Anaesthetics) Order 1980 SI No. 685;
Protection of Animals (Anaesthetics) Act 1954 (Amendment) Order 1982 SI
No. 1626,
Protection of Animals (Anaesthetics) Act 1954 (Amendment) (No.2) (England)
Order 2003, SI No. 1328;

Welfare of Livestock (Prohibited Operations) Regulations 1982 SI No. 1884;
Welfare of Livestock (Prohibited Operations) (Amendment) Regulations 1987
SI No. 114;

The Welfare of Farmed Animals (England) Regulations 2000 SI No. 1870
[schedule 3D, paragraphs 8 and 9; and schedule 6, paragraphs 19-26].
The Welfare of Farmed Animals (England) (Amendment) Regulations 2002 SI
No. 1646
The Welfare of Farmed Animals (England) (Amendment) Regulations 2003 SI
No. 299