

Draft Regulations laid before the Scottish Parliament under section 51(3) of the Animal Health and Welfare (Scotland) Act 2006 for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2010 No.

ANIMALS

**The Prohibited Procedures on Protected Animals
(Exemptions) (Scotland) Regulations 2010**

Made - - - - 2010

Coming into force in accordance with regulation 1

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 20(5)(b) of the Animal Health and Welfare (Scotland) Act 2006⁽¹⁾ and all other powers enabling them to do so.

In accordance with section 20(6) of that Act, they have consulted such persons appearing to them to represent relevant interests and such other persons as they consider appropriate.

In accordance with section 51(3) of that Act, a draft of the Regulations has been laid before and approved by resolution of the Scottish Parliament.

Citation and commencement

1. These Regulations may be cited as the Prohibited Procedures on Protected Animals (Exemptions) (Scotland) Regulations 2010 and come into force on the day after the day on which they are made.

Interpretation

2. In these Regulations—

“agricultural land” means land used for agriculture (within the meaning of the Agriculture (Scotland) Act 1948⁽²⁾) which is so used for the purposes of a trade or business;

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

“de-snooding” means the removal of the part of the male turkey’s wattle arising from the forehead and lying over the upper beak;

“disbudding” means the removal of the horn bud;

(1) 2006 asp 11.

(2) 1948 c.45, section 86(3).

- “dock” means the amputation of one or more coccygeal vertebrae of the tail of an animal;
- “domestic fowl” means a domesticated member of the species *Gallus gallus*;
- “dubbing” means the removal of all or part of the comb of a bird;
- “equine animal” means any animal of the genus *Equus* including hybrids;
- “infra-red procedure” means an automated procedure involving exposure of the tip of the beak of a chick to a focused high intensity infra-red beam designed to cause a limited area of tissue damage and subsequent loss of the beak tip;
- “laying hen” means a domestic fowl which is kept or to be kept for the production of eggs not intended for hatching;
- “meat chicken” means a domestic fowl which is kept or to be kept for the production of meat;
- “non-farmed” when applied to an animal means a bovine animal, deer, goat, pig or sheep which is not bred or kept for the production of food, wool or skin or for other farming purposes, and includes—
- (a) an animal whilst at, or solely intended for use in, a competition, show or cultural or sporting event or activity;
 - (b) an experimental or laboratory animal; and
 - (c) an animal living in the wild;
- “pinioning” means the disabling of the wing of a bird by the removal of the metacarpal bone and phalanges of one wing;
- “poultry” means any bird reared or kept in captivity for the production of meat or eggs for consumption, or of other products, for restocking supplies of game or for the purpose of any breeding programme for the production of such categories of birds;
- “surgical castration” means any method of castration that involves cutting or tearing tissue but not crushing tissue at the neck of the scrotum using a rubber ring or other device; and
- “surgical docking” means any method of docking that involves cutting or tearing tissue but not crushing tissue using a rubber ring or other device or using a hot iron.

Exempted Procedures

3. The Scottish Ministers hereby specify the procedures described in column 1 of each of Schedules 1 to 12 where the procedure is carried out in relation to the particular type of protected animal⁽³⁾ described in any of those Schedules and is carried out—

- (a) for a purpose which is specified, in relation to any such procedure, in column 2 of the corresponding entry in the relevant Schedule;
- (b) in hygienic conditions;
- (c) in such a way as to minimise the pain and suffering it causes to the animal;
- (d) in accordance with good practice; and
- (e) where applicable, in accordance with such conditions as are specified, in relation to any such procedure, in column 1 of the entry in the relevant Schedule,

as procedures in relation to which section 20 (mutilation) of the Animal Health and Welfare (Scotland) Act 2006 does not apply.

(3) The term “protected animal” is defined in section 17 of the Animal Health and Welfare (Scotland) Act 2006.

Revocations

4. The following instruments are revoked:—
- (a) the Prohibited Procedures on Protected Animals (Exemptions) (Scotland) Regulations 2007~~(4)~~; and
 - (b) the Prohibited Procedures on Protected Animals (Exemptions) (Scotland) Amendment Regulations 2009~~(5)~~.

St Andrew's House,
Edinburgh
Date

A member of the Scottish Executive

~~(4)~~ S.S.I. 2007/256, amended by S.S.I. 2009/47.
~~(5)~~ S.S.I. 2009/47.

SCHEDULE 1

Regulation 3

Bovine animals

Procedure	Purpose
Freeze branding	Identification
Tattooing	Identification
Ear tagging	Identification
Micro chipping	Identification
Vasectomy	Controlling reproduction or general animal management
Castration	Controlling reproduction or general animal management
Implantation of a subcutaneous contraceptive into a non-farmed bovine	Controlling reproduction or general animal management, as part of a conservation programme
Embryo and ovum transfer	Controlling reproduction or general animal management
Nose ringing	Handler safety or herd welfare
Dehorning	Handler safety or herd welfare
Disbudding	Handler safety or herd welfare
Supernumerary teat removal	Animal health

SCHEDULE 2

Regulation 3

Pigs

Procedure	Purpose
Tattooing	Identification
Ear tagging	Identification
Ear notching	Identification
Micro chipping	Identification
Vasectomy	Controlling reproduction or general animal management
Implantation of a subcutaneous contraceptive into a non-farmed pig	Controlling reproduction or general animal management, as part of a conservation programme
Embryo and ovum transfer	Controlling reproduction or general animal management
Tusk trimming	Handler safety or herd welfare

Procedure	Purpose
<p>Docking of farmed pigs kept on agricultural land</p> <p>Conditions—</p> <p>1) The procedure may only be performed—</p> <p style="padding-left: 40px;">(a) where there is evidence that injuries to the tails of other pigs have occurred and where other measures to improve environmental conditions or management systems have been taken in order to prevent tail-biting; and</p> <p style="padding-left: 40px;">(b) by the quick and complete severance of the part of the tail to be removed.</p> <p>2) Where pigs are older than 7 days of age the procedure must be performed under anaesthetic and additional prolonged analgesia and only by a veterinary surgeon.</p>	<p>Handler safety or herd welfare</p>
<p>Uniform reduction of the corner teeth of farmed piglets kept on agricultural land aged 7 days or less by grinding or clipping to leave an intact smooth surface</p> <p>Condition—</p> <p>The procedure may only be performed where there is evidence of injuries to sows' teats or to other pigs' ears or tails and when other measures have been taken to prevent tail-biting and other vices have been exhausted.</p>	<p>Herd welfare</p>
<p>Nose ringing</p> <p>Condition—</p> <p>Nose rings must not be put in animals kept continuously in indoor husbandry systems.</p>	<p>General animal management</p>
<p>Castration</p>	<p>Controlling reproduction or general animal management.</p>

Procedure	Purpose
<p>Conditions—</p> <p>1) Castration may only be performed by means other than the tearing of tissues.</p> <p>2) Where pigs are older than 7 days of age the procedure must be performed under anaesthetic and additional prolonged analgesia and only by a veterinary surgeon.</p>	

SCHEDULE 3

Regulation 3

Birds

Procedure	Purpose
Micro chipping	Identification
<p>Beak trimming of poultry</p> <p>Conditions—</p> <p>1) Beak trimming of poultry may only be performed to prevent feather pecking and cannibalism and, in relation to laying hens kept on holdings of 350 or more and meat chickens kept on holdings of 500 or more, when the animals are less than 10 days old.</p> <p>2) Beak trimming of laying hens kept on holdings of 350 or more may only be performed using the infra-red procedure.</p> <p>3) In an emergency, to control an outbreak of feather pecking or cannibalism in laying hens, conditions 1 and 2 do not apply.</p> <p>4) Beak trimming of meat chickens may only be carried out, after consultation with and on the advice of a veterinary surgeon, by qualified</p>	Flock welfare

Procedure	Purpose
staff, and where other measures to prevent feather pecking and cannibalism are exhausted.	
De-snooding	General animal management
Cutting of the toes of poultry other than laying hens and meat chickens	General animal management
Dubbing of domestic fowl other than laying hens and meat chickens	General animal management
Pinioning of birds other than poultry	General animal management
Laparoscopy	General animal management
Castration, ovidectomy and vasectomy of a bird other than poultry	Controlling reproduction or general animal management, as part of a conservation programme
Implantation of a subcutaneous contraceptive into a bird other than poultry	Controlling reproduction or general animal management, as part of a conservation programme
Wing tagging	Identification of— 1) poultry in connection with breeding or testing for the presence of disease; or 2) a bird other than poultry in connection with conservation or research
Web tagging	Identification of— 1) poultry in connection with breeding or testing for the presence of disease; or 2) a bird other than poultry in connection with conservation or research

SCHEDULE 4

Regulation 3

Sheep

Procedure	Purpose
Tattooing	Identification
Ear tagging	Identification

Draft Legislation: This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: *The Prohibited Procedures on Protected Animals (Exemptions) (Scotland) Regulations 2010 No. 387*

Procedure	Purpose
Ear notching	Identification
Micro chipping	Identification
Vasectomy	Controlling reproduction or general animal management
Castration	
Condition— Surgical castration may only be carried out by a veterinary surgeon.	Controlling reproduction or general animal management
Laparoscopic insemination	Controlling reproduction or general animal management
Embryo and ovum transfer	Controlling reproduction or general animal management
Implantation of a subcutaneous contraceptive into a non-farmed sheep	Controlling reproduction or general animal management, as part of a conservation programme
Dehorning	Handler safety or flock welfare
Disbudding	Handler safety or flock welfare
Docking of a farmed sheep kept on agricultural land	Animal health
Conditions— 1) Docking of sheep over 3 months of age may only be carried out by a veterinary surgeon. 2) Surgical docking may only be carried out by a veterinary surgeon.	

SCHEDULE 5

Regulation 3

Goats

Procedure	Purpose
Tattooing	Identification
Ear tagging	Identification
Ear notching	Identification

Procedure	Purpose
Micro chipping	Identification
Vasectomy	Controlling reproduction or general animal management
Castration	Controlling reproduction or general animal management
Laparoscopic insemination	Controlling reproduction or general animal management
Implantation of a subcutaneous contraceptive into a non-farmed goat	Controlling reproduction or general animal management, as part of a conservation programme
Embryo and ovum transfer	Controlling reproduction or general animal management
Dehorning	Handler safety or herd welfare
Disbudding	Handler safety or herd welfare

SCHEDULE 6

Regulation 3

Equine Animals

Procedure	Purpose
Freeze branding	Identification
Tattooing	Identification
Micro chipping	Identification
Vasectomy	Controlling reproduction or general animal management
Castration	Controlling reproduction or general animal management
Implantation of a subcutaneous contraceptive	Controlling reproduction or general animal management
Embryo and ovum transfer	Controlling reproduction or general animal management

SCHEDULE 7

Regulation 3

Deer

Procedure	Purpose
Tattooing	Identification

Draft Legislation: This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: *The Prohibited Procedures on Protected Animals (Exemptions) (Scotland) Regulations 2010 No. 387*

Procedure	Purpose
Ear tagging	Identification
Ear notching	Identification
Micro chipping	Identification
Vasectomy	Controlling reproduction or general animal management
Castration	Controlling reproduction or general animal management
Implantation of a subcutaneous contraceptive into a non-farmed deer	Controlling reproduction or general animal management, as part of a conservation programme
Embryo and ovum transfer	Controlling reproduction or general animal management
Removal of antlers	Handler safety or herd welfare

SCHEDULE 8

Regulation 3

Cats

Procedure	Purpose
Ear tipping of feral cats	Identification
Micro chipping	Identification
Tattooing	Identification
Vasectomy	Controlling reproduction or general animal management
Castration	Controlling reproduction or general animal management
Spaying	Controlling reproduction or general animal management
Implantation of a subcutaneous contraceptive	Controlling reproduction or general animal management

SCHEDULE 9

Regulation 3

Dogs

Procedure	Purpose
Micro chipping	Identification
Tattooing	Identification

Procedure	Purpose
Vasectomy	Controlling reproduction or general animal management
Castration	Controlling reproduction or general animal management
Spaying	Controlling reproduction or general animal management
Embryo and ovum transfer	Controlling reproduction or general animal management
Implantation of a subcutaneous contraceptive	Controlling reproduction or general animal management
Amputation of dew claws	General animal management

SCHEDULE 10

Regulation 3

Fish

Procedure	Purpose
Chemical branding	Identification
Freeze branding	Identification
Passive integrated transponder tagging/micro chipping	Identification
Removal or perforation of parts of the fins, adipose fins or fin rays	Identification
Removal of fish scales	Age determination or stock management
Implantation of a subcutaneous contraceptive	Controlling reproduction or general animal management

SCHEDULE 11

Regulation 3

Reptiles

Procedure	Purpose
Micro chipping	Identification
Laparoscopy	General animal management
Implantation of a subcutaneous contraceptive	Controlling reproduction or general animal management

SCHEDULE 12

Regulation 3

Any other kind of animal

Procedure	Purpose
Micro chipping	Identification
Tattooing	Identification
Vasectomy	Controlling reproduction
Castration	Controlling reproduction
Spaying	Controlling reproduction
Embryo and ovum transfer	Controlling reproduction
Implantation of a subcutaneous contraceptive	Controlling reproduction or general animal management

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

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

These Regulations revoke and replace (with amendments) the Prohibited Procedures on Protected Animals (Exemptions) (Scotland) Regulations 2007 and the Prohibited Procedures on Protected Animals (Exemptions) (Scotland) Amendment Regulations 2009. The provisions in the revoked Regulations relating to the authorisation of hot branding of equine animals have not been re-enacted and no savings have been made as no authorisations exist at the date of making these Regulations.

The Regulations also implement provisions in the following EU legislation:—

Council Directive [1999/74/EC](#) laying down minimum standards for the protection of laying hens;

Council Directive [2007/43/EC](#) laying down minimum rules for the protection of chickens kept for meat production; and

Council Directive [2008/120/EC](#) laying down minimum standards for the protection of pigs.

Section 20(1) of the Act makes it an offence to carry out, or cause to be carried out, a prohibited procedure on a protected animal. Section 20(2) makes it an offence for a person responsible for an animal to permit or fail to take reasonable steps to prevent a prohibited procedure being carried out on a protected animal. Section 20(3) makes it an offence to take an animal, or cause an animal to be taken, from a place in Scotland for the purpose of having a prohibited procedure carried out on that animal at a place outwith Scotland.

“Protected animal” is defined in section 17 of the Act as an animal which is of a kind commonly domesticated in the British Islands, under the control of man on a permanent or temporary basis, or not living in a wild state. In terms of section 20(4) of the Act a reference to the carrying out of a

prohibited procedure on an animal is to the carrying out of a procedure which involves interference with the sensitive tissues or bone structure of the animal.

Regulation 3 and Schedules 1 to 12 exempt certain procedures from the application of section 20 of the Act where they are carried out for specified purposes and in accordance with any specified condition and with good practice. Guidance on good practice is found in the animal welfare codes which may be viewed on the Scottish Government website at www.scotland.gov.uk.

Notwithstanding that these Regulations exempt certain procedures from the statutory prohibitions in section 20, those procedures remain subject to requirements imposed by other legislation and, in particular, these Regulations do not permit procedures to be carried out by anyone except in accordance with the Veterinary Surgeons Act 1966. Information on several of those requirements, and the related legislation, can be found in the animal welfare codes.

A Regulatory Impact Assessment has not been produced for this instrument as it has no impact on the costs of business.