

# Final Business and Regulatory Impact Assessment

## **Title of Proposal**

The Prohibited Procedures on Protected Animals (Exemptions) (Scotland) Amendment Regulations 2017

## **Purpose and intended effect**

### **Objective**

The objective is to permit the shortening of the tails of spaniel and Hunt Point Retrievers (HPRs) where a vet has seen evidence that they are likely to be used as a working dog in connection with the lawful shooting of animals in later life.

### **Background**

After much public debate, tail docking of all dogs was banned in Scotland in 2007 under the Animal Health and Welfare (Scotland) Act 2006; except for the purpose of medical treatment. At the time, the Scottish Government stated that if in the future the ban compromised the overall welfare of working dogs then it would review the position.

### **Rationale for Government Intervention**

The legislative amendment is being introduced to promote the welfare of working spaniel and hunt point retrievers and to mitigate serious tail injury in later life.

The Scottish Government and the UK Department for Environment, Food and Rural Affairs co-funded research by the University of Bristol and the Royal Veterinary College in 2009 on tail injuries in working dogs, but this did not provide sufficient information on the impact on undocked working dogs to justify a change in policy.

In 2011, the Scottish Government commissioned further research by the University of Glasgow into the incidence of tail injuries in Scottish working dogs, specifically Spaniels, Hunt Point Retrievers and terriers, and the papers were published in the Veterinary Record on 23 April 2014. The research studies “Survey of tail injuries sustained by working gundogs and terriers in Scotland” and “The prevalence of tail injuries in working and non-working breed dogs visiting veterinary practices in Scotland” noted that:

- In one shooting season 55% of undocked Spaniels and 39% of Hunt Point Retrievers experienced a tail injury of some sort.
- Docking the tails of Spaniel and Hunt Point Retriever puppies by one third could significantly decrease the risk of injury for working dogs of these breeds.
- There was no apparent protective effect in removing more than one third of the tail or in docking the tails of terriers.
- In order to prevent one tail injury of any sort to a working dog of these breeds between 2 and 18 puppies need to be docked (depending on the numbers of puppies from a litter that went on to be used as working dogs).

## **Consultation**

### **Within Government**

All 32 Scottish Local Authorities were consulted as part of the public consultation mentioned below. Responses were received from West Lothian, Shetland Island and Stirling Councils.

### **Public Consultation**

The Scottish Government conducted a full public consultation which ran for 12 weeks from 10 February to 3 May 2016. This attracted 906 responses and the independent analysis report, prepared by Why Research Ltd, was published on 4 October 2016.

( <http://www.gov.scot/Publications/2016/10/6117> )

### **Business**

There are only a few licensed breeders of the affected dog breeds in Scotland, largely spaniel breeds, and there is no information available on the numbers of puppies bred by these licensed breeders becoming working dogs. The majority of working dogs are expected to be bred from working strains held by persons breeding fewer than the threshold number of litters (5 per year) required for a breeding licence.

Breeders of working dogs are often members of countryside, shooting and conservation groups and many responses to the consultation came from such hobby breeders. In addition, responses were received from a number of gundog groups, the Scottish Association for Country Sports, Scottish Countryside Alliance, British Association for Shooting and Conservation, Scottish Gamekeepers Association, and Scottish Land and Estates.

## **Options**

There were two viable options suggested by the evidence collected through the research by the University of Glasgow identifying welfare benefits in docking the end-third of a tail in a limited number of working dog breeds only.

Option 1: Do nothing. This option did nothing to mitigate the reported injuries to working dogs of Spaniel and HPR breeds. A number of respondents to consultation also suggested that it would continue economic disadvantage to rural economies and lead to the end of some strains of dogs bred for work.

Option 2: Legislate to permit tail shortening for those Spaniel and HPR puppies likely to work in later life. This promotes the welfare of those dogs most likely to suffer tail injury in a later working life.

### **Sectors and groups affected**

Breeders of spaniels and hunt point retrievers used in connection with lawful shooting and those using these dogs in connection with lawful shooting would be affected.

### **Benefits**

Option 1: Continuation of the ban would mean that, on one hand, working dogs of the proposed exempted breeds would retain their full tails and not experience the pain of docking as puppies. On the other hand, working examples of those breeds would continue to risk later life injuries.

Option 2: Permitting tail shortening would place breeders of the proposed exempted breeds on a level footing in relation to breeders from other countries where shortening is permitted. Additionally, this option could involve working dogs bred in Scotland suffering significantly fewer tail injuries that require treatment when working, with savings in time and expense for owners.

### **Costs**

Option 1: There are no additional costs associated with the option of continuing the ban on tail shortening. Ongoing costs can be estimated to be those associated with veterinary treatment of tail injuries incurred through working. Anecdotally, tail injuries can be time consuming and difficult to treat with a number of further veterinary interventions required.

Option 2: Permitting tail shortening will involve the additional cost of approximately £31 for each individual procedure. Respondents to the consultation were provided with an opportunity to quantify costs and benefits but no financially useful information was provided. The University of Glasgow research noted approximately 1,500 dogs from the proposed exempted breeds in Scotland; however, that figure is based solely in the information provided by respondents to the researchers and it is considered safe to assume that there will be a greater number of working dogs. Multiplying the number of dogs by the cost of the procedure provides an estimated cost of greater than £46,500 to shorten the tails of the proposed exempted breeds. On the other hand, this cost is already borne by those in direct competition for the sale of docked working breeds with Scottish breeders and can safely be assumed to be welcomed by Scottish breeders if it enables them to compete in the market for working Spaniels and HPRs.

### **Scottish Firms Impact Test**

There were no face-to-face discussions held with veterinarians, the only persons legally permitted to perform tail shortening, or with breeders of the proposed exempted breeds. These groups were given the opportunity to contribute information through the full public consultation mentioned above, and no financially useful information was provided in the responses from representatives of those sectors.

### **Competition Assessment**

As this regulation applies to all relevant businesses in Scotland, there are not considered to be any issues for competition.

Using the four Competition and Markets Authority competition assessment framework, it has been established that Option 2 is unlikely to have any material impact on competition. Option 2 will not limit the number or range of suppliers directly or indirectly, nor will it limit the ability or reduce incentives of suppliers to compete vigorously, and nor will it limit the choices and information available to consumers.

**Test run of business forms**

Certification will be completed by veterinary surgeons when tail shortening of the proposed exempted breeds is carried out. The certificate to be used has been discussed with the Royal College of Veterinary Surgeons to ensure ease of use.

**Legal Aid Impact Test**

The Prohibited Procedures on Protected Animals (Exemptions) (Scotland) Amendment Regulations 2017 will not introduce new criminal sanctions or criminal penalties; therefore there are no legal aid implications.

**Enforcement, sanctions and monitoring****Enforcement**

This is a relaxation to a current ban on docking of any animal which is currently enforced by inspectors appointed by either the Scottish Ministers or local authorities, or by a police constable. Those persons will continue to enforce the provisions of the Animal Health and Welfare (Scotland) Act 2006 under which The Prohibited Procedures on Protected Animals (Exemptions) (Scotland) Amendment Regulations 2017 are introduced.

**Sanctions**

No changes are suggested by The Prohibited Procedures on Protected Animals (Exemptions) (Scotland) Amendment Regulations 2017 to the sanctions contained in the Animal Health and Welfare (Scotland) Act 2006.

**Monitoring**

The effectiveness and impact of The Prohibited Procedures on Protected Animals (Exemptions) (Scotland) Amendment Regulations 2017 will be monitored via feedback from stakeholders as part of the ongoing policy process.

**Implementation and delivery plan**

The Prohibited Procedures on Protected Animals (Exemptions) (Scotland) Amendment Regulations 2017 will take effect on the date of making of the Regulations as approved by the Scottish Parliament.

**Post-implementation review**

A formal review will take place within 10 years of the legislation coming into force to ensure it is still fit for purpose.

**Summary and recommendation**

Option 2, to permit tail shortening of a limited number of working dog breeds, is recommended for the welfare benefits accruing through a reduction in tail injuries in later life.

**Summary costs and benefits table**

Option	Total benefit per annum: - economic, environmental, social	Total cost per annum: - economic, environmental, social - policy and administrative
1. Do Nothing	No benefits have been identified.	No increased costs as a result of not legislating.

		<p>Current rates of injury to undocked working spaniels and HPRs will continue at the estimated rate of 55% and 39% respectively.</p> <p>The costs to the owners of treating such injuries are not expected to increase above inflation.</p>
<p>2. Permit the shortening of the tails of Spaniel and HPRs where a vet believes they are likely to be used for working and risk serious tail injury in later life.</p>	<p>The current rate of injury to undocked working Spaniels and HPRs is expected to reduce and to significantly improve the welfare of those dogs.</p> <p>The market for Scottish-bred working spaniels and HPRs is expected to grow, reducing costs for those engaged in lawful shooting.</p>	<p>Costs of shortening the tails of working dogs is estimated at &gt;£46,500 per annum. The reduced cost of veterinary treatment for injured dogs and the potential increase in sales of Scottish-bred dogs of the proposed exempted breeds more than offsets that cost.</p>

### **Declaration and publication**

I have read the Business and Regulatory Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

**Signed:**

**Date:**

**Minister's name: Roseanna Cunningham**

**Minister's title: Cabinet Secretary for Environment, Climate Change and Land Reform**

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