

EXECUTIVE NOTE

The Welfare of Animals (Transport) (Scotland) Regulations 2006 S.S.I. 2006/606

Powers

1. The above Regulations are made in exercise of powers conferred by section 2(2) of the European Communities Act 1972 which allows Scottish Ministers to make regulations to implement European legislation.

Parliamentary Procedure

2. This Regulation is a general instrument and only needs to be laid before Parliament.

Policy Objectives

3. Whilst EC Regulation 1/2005 on the protection of animals during transport and related operations is directly applicable in all Member States, national legislation is needed to provide for enforcement, penalty provisions and proposed derogations from the general requirements.

The Regulations

3. These Regulations revoke the Welfare of Animals (Transport) Order 1997 which implemented the previous European legislation (Council Directive 91/628/EEC) on the protection of animals during transport. Council Directive 91/628/EEC has been replaced by European Council Regulation 1/2005, and the Welfare of Animals (Transport) (Scotland) Regulations 2006 make provision for the administration and enforcement of the new European Regulation on the protection of animals during transport and related operations.

4. The Scottish Regulations make provision for the administration and enforcement of Council Regulation 1255/97 concerning Community criteria for staging points where animals on very long journeys can be unloaded, rested, fed and watered and amending the route plan. The regulations are enforced by the Local Authorities.

5. Part 2 of the Regulations enforces the requirements of Council Regulation (EC) 1/2005 which apply to the transport of animals. In particular, making it an offence for failure to comply with the requirements of the EC Regulation in relation to transport, transporters, roll-on roll-off vessels, organisers, keepers and assembly centres. Part 2 also enforces the

requirement of Council Regulation (EC) 1255/97 in relation to control posts and makes it an offence to operate a control post without prior approval.

6. Part 3 derogates from some of the requirements for road vehicles as long as the journey to the final destination will under 12 hours. These derogations mean that there is no need to have vehicles, inspected and approved, unless they are carrying horses or livestock; pigs do not need a continuous supply of water; the roof does not need to be insulated; the internal temperature of the vehicle does not need to be higher than 0°C; a forced ventilation system, a temperature monitoring and a navigation system are not required.

7. Part 4 allows approvals, authorisations and certificates to be amended, suspended or revoked and for representations to be made against any notice which would amend, suspend or revoke them.

8. Part 5 gives Inspectors the power to require a person in charge of animals to comply with the Regulations and to stop a journey where considered necessary. Owners or charters of vessels used to transport animals are required to produce information on demand to an officer of the Scottish Ministers, which may include a plan of the vessel.

Consultation

14. A consultation paper was issued on 19 May 2006 to nearly 400 interested organisations and individuals. The consultation period lasted until 14 August 2006 and a total of 41 responses were received. Most respondents agreed with the Executive plans to derogate on vehicle standards for journeys of up to 12 hours within the UK and our interpretation that the need for vehicle inspection and approval should be limited to livestock and horse vehicles.

Financial Effects

15. A Regulatory Impact Assessment has been prepared and has been placed in the Scottish Parliament Information Centre.

Scottish Executive Environment and Rural Affairs Department

December 2006

The Welfare of Animals (Transport) Scotland Regulations 2006

FINAL REGULATORY IMPACT ASSESSMENT ON COMPLIANCE WITH COUNCIL REGULATION (EC) NO 1/2005 ON THE PROTECTION OF ANIMALS DURING TRANSPORT AND RELATED OPERATIONS

1. **Title of proposal**

1.1 The Welfare of Animals (Transport) Scotland Regulations 2006

2. **Purpose and intended effect**

Objective

2.1 To set up the administrative and enforcement arrangements to ensure compliance with the directly applicable EC Regulation which sets rules for the protection of animals during transport within, to and from the EU.

2.2 The intention is to introduce these arrangements in the most effective, proportionate and least burdensome way to those affected.

Background

2.3 In 1997 Member States were obliged to implement and enforce additional requirements enhancing the controls first agreed in 1991 (Directive 95/29 amending Directive 91/628). The main changes were the introduction of statutory registration of transporters and route plans. By detailing the planned journey, route plans help to ensure compliance with specified maximum journey times, feed and rest periods for farmed livestock and horses. The Welfare of Animals (Transport) Order 1997 (WATO '97) implemented the Directive.

2.4 However, the Directive was considered to be inadequate in that the lack of independent assessment was not credible and enforcement tools were not robust enough for enforcers to identify and take sanctions against transporters who did not comply with the rules. Ministers therefore made a commitment to review the implementing Welfare of Animals (Transport) Order 1997 after one year of operation. A review was carried out in 1998/99. One of the measures proposed following this review was mandatory independent assessment of transporters in place of the assessment by employers or self-assessment by the self-employed. Consultation was carried out on the review, but the further work to amend the Order was stopped when the European Commission announced that they were to review the Directive.

2.5 A Commission Report of December 2000 on the experiences of Member States since implementation of the 1997 rules highlighted problems and recommended improvements in: the transport of horses; dealing with non-compliance with route plans and travelling time limits; handling of animals and preventing transport of unfit animals; road vehicle standards and ventilation on long distance vehicles; enforcement of space allowances; harmonisation of certification of transporters; and use of data from Member States' inspection reports.

2.6 In many cases it recommended adoption of measures developed by the UK. A report by the Food and Veterinary Office (FVO) on its mission to the UK in February 2001¹ stated ‘the procedures developed in the UK are an example of best practice in relation to similar controls operated in other Member States’.

2.7 Following consideration of the Commission Report by the Committee on Agriculture and Rural Development and the opinion of the Committee on the Environment, Public Health and Consumer Policy, a report and Motion for Resolution were produced². The Resolution included 29 detailed points ranging from maximum journey times, through vehicle standards and improved enforcement to export refunds and restructuring the EU meat production chain.

2.8 The Report of the Scientific Sub Committee on Animal Health and Welfare on the Welfare of Animals during Transport adopted in March 2002 made recommendations on maximum travel times and space allowances for cattle, sheep, goats, pigs and horses.

2.9 The Commission carried out consultation with industry and the public and in December 2002 announced results that showed clear support for change. Responses throughout the Community were heavily weighted towards individuals (3539) rather than organisations (602). Further more, the number of respondents from the UK (636) was the second largest to Germany (954). Responses supported: changes to maximum journey times and space allowances; improved vehicle standards; better handling of animals; better planning and organisation of journeys; stricter approval and certification of competence conditions for transporters; approval of vehicles; enhanced communication between Member States; heavier penalties for infringements; and more checks and controls by Member States.

2.10 Proposals to amend the Directive were issued in July 2003. These included changes to journey times, allowed animals to be rested on vehicles during mid journey rests and set new space allowances. These changes were too radical for some Member States. Failure to reach consensus meant that discussions collapsed at the April 2004 Agriculture Council due mainly to Member States being unable to reach agreement on journey times.

2.11 The following Presidency revived the package avoiding the contentious issues of journey times and space allowances. The UK welcomed the possibility of salvaging the bulk of the proposed new Regulation which included the improvements for protection of horses. A compromise package meant however that some less welcome changes had to be accepted in order to maintain what gains had been achieved. The Regulation was adopted at the Agriculture Council in December 2004.

The Regulation

2.12 The Regulation will apply to the transport of all vertebrate animals in connection with an economic activity. Some requirements apply only to horses, farmed animals (cattle, sheep, goats and pigs) and poultry. “Economic activity” is not defined in the Regulation. Ultimately, the interpretation of what constitutes an “economic activity” is for the Courts to determine. However, in our written guidance we have sought to indicate what we consider is within scope. We consider the following kinds of journeys are not connected with an economic activity.

- Not in the course of business or trade;
- Not for hire or reward;

¹ (DG (SANCO) /3245/2001-MR Final)

² (Final A5-037/2001 of 16 October)

- Consisting of a single animal accompanied by a person who has responsibility for its welfare (or two or more animals accompanied by the same number of people);
- Pet animals accompanied by their owner on a private journey;
- Pet animals taken to and from a specialist show or competition, where the primary purpose is for pleasure or competition, not as part of a business e.g. commercial pet breeders;
- Horses and ponies transported by an owner for the purpose of riding or showing or competing for pleasure e.g. point-to-point. However, a haulier movement of animals transported for pleasure etc, where the haulier was paid for undertaking the transport, would be within the scope of the Regulation;
- Where individuals attending shows or competitions primarily for pleasure share the burden of transport e.g. petrol costs, but where there is no profit made by the individual carrying out the transport;
- Animals transported as part of official duties by public services and the armed forces.
- Hobby breeders (excludes those breeding farm livestock or poultry) where this income source does not exceed expenses of this hobby.

This list is not definitive and, as stated above, it will ultimately be for the courts to decide.

2.13 There are exemptions from the Regulation and exemptions from certain requirements of the Regulation for certain categories. These and what applies to each category are described below.

(a) Exemptions

2.14 Journeys directly to or from a veterinary practice or clinic under the advice of a veterinarian and farmers transporting their own animals in their own vehicles under 50 km are exempt from most of the Regulation. However, some general conditions still apply such as:

- ensuring the journey time is kept to a minimum and the animals are checked and their needs met during the journey;
- the animals are fit to travel;
- the vehicle and loading and unloading facilities are designed, constructed and maintained to avoid injury and suffering;
- those handling animals are trained or competent in the task and do not use violence or any methods likely to cause unnecessary fear, injury or suffering;
- water, feed and rest are given to the animals as needed; and sufficient floor space and height is allowed.

(b) Journeys Up to 65 Km

2.15 Transporters of animals on journeys up to 65 Km are exempted from requirements for authorisation, training and certificates of competence but the detailed technical rules must still be complied with on: fitness to travel; means of transport; and transport practices.

(c) Up to 8 Hours

2.16 Other transporters carrying out journeys up to 8 hours will have to:

- be authorised by the competent authority (valid for 5 years);
- have received training or entrust the handling of the animals to personnel who have received training and, if transporting horses, farmed animals or poultry, have independent certification of competence;
- demonstrate that they have appropriate staff and equipment to transport animals in a proper way and have no record of serious infringements of animal welfare legislation in the preceding 3 years.

(d) Over 8 Hours

2.17 Transporters of vertebrate animals carrying out journeys of over 8 hours by road will, in addition, have to have their vehicles or livestock containers inspected and approved according to specific criteria such as on-vehicle drinking systems, ventilation systems and temperature monitoring. This requirement does not, however, apply to animals other than farmed livestock and horses if the animals are transported in containers which are either free standing or permanently or temporarily secured to a vehicle and forming the sole means of containing the animal.

2.18 From 2007, new vehicles, and from 2009, all vehicles used to transport horses³ or farmed animals on journeys over 8 hours by road will also have to be equipped with a navigation system to trace and verify compliance with travel times limits for animals.

(e) Other Provisions

2.19 Maximum journey times and space allowances are unchanged, but the European Commission is required to review them by 2011.

2.20 Unfit animals are more tightly defined and there will be a ban on transporting very young animals except if the journey is less than 100 km. For example: calves of less than 10 days of age; pigs of less than three weeks; and lambs of less than one week. In particular:

- the transport of calves of less than 14 days of age on journeys exceeding 8 hours will not be permitted;
- pregnant animals will not be considered fit for transport if they have reached the latest stage of gestation (within 10% of the estimated time of the gestation before birth) and for a period of one week after giving birth; and
- cats and dogs under 8 weeks of age may not be transported commercially, unless accompanied by their mother.

2.21 Specific rules for the transport of horses include:

- they must be transported in single partitions on journeys longer than 8 hours, or when transported in a vehicle on a roll-on roll-off ferry (other than a mare and foal);
- a minimum space above the withers must be given;
- unbroken ponies may not be transported in groups of more than four and cannot be transported on journeys longer than 8 hours by road;

³ except registered horses.

- foals under 4 months must have appropriate bedding and (unless with their mother) may not be transported for longer than 8⁴ hours by road.

2.22 Transport by sea will be subject to approval of livestock vessels (but not roll-on roll-off ferries) used to transport horses or farmed animals for distances greater than 10 nautical miles.

2.23 Operators of markets and assembly centres will be responsible for the welfare of animals and application of the rules on their premises. Personnel handling livestock at EU Approved assembly centres will have to be trained.

2.24 Competent authorities will be better equipped to monitor and enforce rules as the EU Regulation is directly applicable in all Member States. This will improve harmonisation across all Member States and avoid inconsistent interpretations that are possible under a Directive. An electronic database of long distance transporters and their vehicles will be accessible to authorities in all Member States and documentation must be carried in a harmonised format to facilitate checks including:

- details of animals being transported;
- transporter's authorisation;
- certificate of approval of the vehicle (for long journeys): and
- a certificate of competence for drivers and attendants (from 5 January 2008).

2.25 Exchange of information between authorities will be improved by establishment of contact points on animal transport in each Member State. Infringements by transporters and withdrawal of authorisations will be notified to all contact points concerned so as to prevent repeated or serious offenders continuing to operate.

2.26 The Commission has recently issued a report and proposals to amend the range of maximum and minimum temperatures for the transport of animals. These are being actively considered by the Commission and Member States. Further developments will include:

- a report on the impact of the Regulation in 2011 which may be accompanied by further proposals, in particular, on journey times, resting periods and space allowances;
- a study on navigation systems and their application by 1 January 2008; and
- a report on implementation of navigation systems and possibly proposals to define specifications to be used by 1 January 2010.

2.27 The European Food Standards Authority produced a report in 2004 on transport of poultry and other species for which there are no specific requirements in the Regulation. The European Commission may publish proposals based on these recommendations but there is no timetable for this at present.

Rationale for government intervention

⁴ except registered horses.

2.28 Council Regulation (EC) No. 1/2005 on the protection of animals during transport and related operations is directly applicable in all Member States. In Scotland, England, Wales and Northern Ireland, however, secondary legislation is needed to set administrative arrangements and penalties for non-compliance. Without such Orders the UK could be liable to infraction proceedings. The Food and Veterinary Office (FVO) of the Commission can be expected to include application of welfare rules in missions following the new rules coming into effect.

2.29 The new rules provide significant improvements in the protection of horses and enforcement capability in respect of all species. The mandatory independent assessment of competence of drivers and attendants is most welcome, having been considered previously in a domestic review of WATO in 1999.

2.30 The Welfare of Animals (Transport) (Scotland) Order 2006 will now put in place for Scotland the mechanism for administration and enforcement of Council Regulation (EC) No. 1/2005.

3. Consultation

Within Government

3.1 Other devolved administrations, Defra and its agencies, the Small Business Service, the Better Regulation Executive of the Cabinet Office, the Department for Communities and Local Government and Department for Transport Agencies.

Public consultation

3.2 Stakeholders, including all known specifically authorised transporters of farmed livestock and horses were advised of the requirements under the Regulation in February 2005. At that time Government proposals on the arrangements to ensure their compliance had not been worked out in detail. Preliminary discussions were held and working groups were set up with key stakeholders to explore ways in which the objectives of the Regulation could be met. The proposals presented in the public consultation document were the result of those discussions which included the major welfare NGOs and the British Egg Industry Council, British Horse Industry Confederation, British Poultry Council, Association of British Insurers, Crowe Livestock Underwriting Ltd, the Scottish National Farmers' Union, Road Haulage Association, the Livestock Auctioneers' Association, and greyhound and racing pigeon bodies.

3.3 Formal public consultation was carried out from 19 May to 14 August 2006. Around 400 stakeholders were consulted and 41 responses were received. The level of information received in relation to numbers of transporters and vehicles affected and associated cost data was generally disappointing in most sectors.

3.4 Despite a lack of hard data on precise costs, a potentially disproportionate impact on the transport of species other than the farmed species and horses was revealed. Simultaneously we had given further consideration to the legal interpretation of the Regulation. Containers used for the transport by road of domestic equidae or farmed cattle, sheep, goats or pigs are subject to inspection and certification under the Regulation. Those used for other species are not. We therefore consider that vehicles used to carry those other species in containers do not require vehicle inspection and approval if the animals are

transported in containers which are either free standing or permanently or temporarily secured to a vehicle and forming the sole means of containing the animal. However, not requiring the prior inspection and approval of these vehicles would not release transporters from ensuring the vehicles used to transport a container meets the criteria for approval laid down in the Regulation. Nor would it exempt them from the general obligations relating to the transport of animals. We also conclude that hobby breeders (but not hobby farmers i.e. those transporting farmed livestock and poultry) should not be regarded as operating in connection with an economic activity where their income source does not exceed the expenses of the hobby. This does not of course remove from hobby breeders their responsibilities to ensure that the welfare of their animals is protected during transportation.

3.5 For the farmed livestock and horse sectors some criteria against which inspection is required offers no proportionate welfare benefit compared with the cost for the species being transported. Certain limited derogations are therefore given as described below in the options which were considered.

Options

4.1 **Option 1 – Do Nothing.** Regulation and its requirements apply, but the Government is at risk of infraction proceedings as effective enforcement of rules is impossible. Opportunity for improved enforcement provisions and increased animal welfare lost. This option is not acceptable.

4.2 **Option 2 – Full Application of Regulation with no use of derogations.** Apply full and immediate enforcement powers to all sectors caught by the Regulation. No risk of infraction proceedings from the European Commission, but while animal welfare will be improved, this option imposes heavy, and in some sectors, disproportionate cost burdens on industry. Small businesses in the farming and road haulage sectors would be affected particularly heavily.

4.3 **Option 3 – Full Use of Derogations.** Article 18.4 of the Regulation allows Member States to derogate from inspection and approval of long distance vehicles in limited circumstances to standards complying with the requirements of:

- Article 18 (Requirement for a vehicle carrying animals over 8 hours to have a certificate of approval);
- Chapter V, 1.4(b) (Pigs having continuous access to water);
- Chapter VI of Annex I (Technical standards for vehicles carrying farm animals and horses over 8 hours).

4.4 The use of derogations is limited. It is only available for road vehicles undertaking journeys within the UK for a maximum of 12 hours in order to reach the final destination. The derogation from the third bullet point above removes the obligation to maintain vehicle internal temperatures within set limits.

4.5 **Option 4 – Selected Use of Derogations from long distance vehicle standards for farm livestock and horses which would give no welfare gain proportionate with cost; derogation from requirement for vehicle inspection and approval for those not transporting farm livestock or horses; and risk based enforcement of ramp angles for existing vehicles.**

4.6 This represents phased risk based introduction of authorisation and application of enforcement. It concentrates on sectors where risk of compromised welfare is highest, defers costly vehicle specification changes in some sectors by use of selected derogations and removes the need for vehicle inspection and authorisation for those travelling over 8 hours with animals other than farm livestock and horses.

4.7 During consultation we reconsidered the position of vehicles transporting poultry and all other animals which are normally transported in containers which are not the means of transport. We concluded that if the animals are transported in containers which are either free standing or permanently or temporarily secured to a vehicle and forming the sole means of containing the animal, that they are outside of the scope for inspection and approval and so do not need derogation.

4.8 We looked at the potential for derogations against a set of criteria which included:

- The costs to transporters, farmers etc in implementing new requirements are disproportionate to welfare benefits; or
- The cost to those affected is disproportionate to the number and type of journeys undertaken; or
- The new requirements are difficult to enforce effectively; or
- No clear welfare benefits ensue.

4.9 Based on these criteria, there is justification for certain derogations:

- Vehicle inspection and approval for those not transporting farm livestock or horses;
- Having water constantly available to pigs;
- Insulated roofs in existing vehicles;
- Maintaining vehicle temperature at 0°C or more when animals are being loaded/unloaded;
- Installation of some of the more sophisticated requirements of the ventilation, temperature monitoring and warning systems is not required;
- Installations of satellite navigation systems.

4.10 Under this option the use of the derogation is limited, as it is in Option 3, to vehicles undertaking journeys within the UK for a maximum of 12 hours in order to reach the final destination. It is also further limited because derogation from the 3rd bullet point in Option 3 would remove the obligation to maintain vehicle internal temperatures within set limits. Derogation from maintaining vehicle temperature at 0° C or more when loading a vehicle is unlikely to cause poor welfare in the UK as many livestock are not housed indoors and therefore accustomed to lower temperatures. There is accordingly no justification in heating a lorry to receive animals when the body heat of the animals will quickly raise the temperature on loading. However, young animals unaccompanied by their mothers, which are more likely to be housed, are not included in the derogation from the lower temperature unless they are provided with sufficient deep bedding of appropriate material to ensure their thermal comfort.

4.11 Temperatures in excess of the maximum temperature however could cause poor welfare and possible mortality. For this reason temperatures must be kept below the maximum limit.

4.12 New ramp angles are not covered by the derogation provisions in the Regulation. Enforcement of the requirements for existing vehicles will be risk based in recognition of the fact that the costs of altering ramp angles in such vehicles would be disproportionate to the welfare gain. Fitting, for example, a high step at the end of the ramp, would satisfy the Regulation, but livestock find steps aversive and this may actually result in an increase in slips or falls and hence poorer welfare and meat quality. Therefore it would be beneficial from both welfare and an industry perspective to ensure full compliance with ramp angles by 2012. At this time the Regulation is to be reviewed by the Commission and would present an opportunity to look again at ramp angles and their application should this be necessary.

4.13 This option is a risk-based approach that seeks to balance improvements in animal welfare with those provisions for which derogations are not provided for in the Regulation such as ramp angles. Implementation costs for new ramp angles would hit industry hard – particularly those in the small business sector.

4.14 This is the preferred option.

5. Costs and Benefits

Sectors and groups affected

5.1 Those transporting vertebrate animals in relation to economic activity including agriculture, equine industry, poultry, road haulage, shipping, air transport, pet industry, fish farmers and couriers transporting non farmed vertebrate species.

5.2 As well as businesses, voluntary organisations, NGOs and the public have a stake in animal welfare. We have considered all these in striking a balance between businesses and society's interest in good welfare. We have also considered potential effect on ethnic groups in this policy area and believe the proposal has no race equality impact. However, we do recognize that some groups of people might find it more difficult to comply with the Regulation than others – particularly members of the traveller/gypsy communities who may have some problems with literacy. We are therefore working with Defra in seeking to work with representative bodies to see how we can best disseminate information and facilitate competence certification.

5.3 The numbers of businesses affected in Scotland are estimated below and are based on our own working figures plus the limited information gained from the consultation.

Hauliers	100
Farmers	4,000
Poultry transporters (source, poultry industry)	10
Game bird transporters	30

Horse transporters (source, horse industry)	600
Greyhound transporters	100
Racing pigeon transporters	100
Pet trade (no. of pet shops/dealers potentially transporting)	400
Dog breeding establishments	100
Dog and cat boarding establishments	600
Fish transporters	160

Total	6,200
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Benefits of the Regulation (General)

Non-market benefits to improving animal welfare during transport

5.4 There is social benefit in meeting public expectations of animal welfare. Within the context of animal welfare policy, there is a sound justification for Government to intervene to ensure levels of animal welfare are supplied at a level at which demand would be satisfied. Demand is a function of both market and non-market forces. The former is unlikely to maximise the overall benefits of improving animal welfare at transport as the Regulations are unlikely to result in a vast change in, for example, carcass downgrading.

5.5 However, non-market benefits are likely to be substantial and have been demonstrated in other sectors of the livestock industry. It is extremely difficult to quantify the benefits of a public good, such as animal welfare and environmental improvements, however, these benefits must not be ignored. The perceptions of the public are an important aspect of the potential benefits of this Regulation and although this may not be translated in substantial market benefits, it is likely to be translated into substantial non-market benefits through the knowledge that animal welfare at transport is being protected. This may assume heightened importance with the resumption of cattle, and more importantly calf, exports during 2006 when improved animal transport rules could help allay public concern over such exports.

Animal Welfare as a Public Good

5.6 The following section has been taken from the final report of a Scottish Agriculture Colleges (SAC) project which identified the non-market benefits of the proposed Directive to set minimum standards for the welfare of meat chickens: (<http://defraweb/animalh/welfare/farmed/meatchks/pdf/non-marketbenefits.pdf>).

“Consumer demand for higher animal welfare standards has been reflected in the increasing market share of products considered to be “welfare friendly”, most notably free-range eggs.

However, there still remain a number of barriers to the more widespread adoption of welfare friendly products across the broader range of animal produce. Harper and Henson (2001) report on the results of a pan-European project looking into consumer concerns about animal welfare and the impact on food choice. A number of important results emanate from this research:

- Consumers are concerned about animal welfare both due to the impact on the animals and a perceived impact on food safety, quality and healthiness. These are seen as being interdependent and policy should address both issues.
- That high reported levels of concern about animal welfare are not translated into purchase decisions is due to a number of perceived barriers to “ethical” choice.
- These include a lack of information; a perceived lack of availability of higher welfare products; a perception of low influence over welfare standards; disassociation from animal productions and slaughter; and perceived higher cost.
- Consumers prefer a strategic approach favouring both supply and demand side measures to improve animal welfare. On the supply side, there should be minimum welfare standards and reform of agricultural policy. Demand side measures should include compulsory labelling and consumer education.

The results reported by Harper and Henson (2001) demonstrate that there are two particular contradictions in the way consumers think about animal welfare:

- They want more information but they do not want to associate food with the killing of animals;
- They say they do not consider price to be the most important factor in food choice but this is not the case at the point of purchase.

These suggest that animal welfare should be treated as a public good issue in the same sense as environmental issues and that policy interventions in a similar vein to agric-environment policy may be the most appropriate method of meeting public preferences for welfare standards.

Mintel (2001) carried out research into attitudes towards ethical foods, (incorporating fair trade, organic vs. GM, the environment, and animal welfare) found that major drivers are consumer trust in the products and perceived health benefits. However, it was found that purchasers of free-range eggs are more likely to cite animal welfare as a concern than health. This may be due to the greater differentiation between production systems on egg packaging.

Earlier research by Mintel (1999) found that 41% of meat purchasers noted concern about animal welfare with 46% of those claiming that it influenced purchase decisions, i.e. 19% of meat purchasers are influenced by welfare issues. Whereas 32% cited personal health as a concern with 53% of those saying it influenced them to seek meat that was not “factory-farmed”, i.e. 17% of all meat purchasers. “

5.7 In addition to the social benefits of improving animal welfare, the animals themselves experience an improved quality of life.

Benefits to animals during transport

5.8 A high proportion of animals are transported at some point in their lives. This is true for all animals whether they be companion, livestock or racing animals. Livestock are the sector that greatest focus has been on in the past with public interest in the live export of animals. There has been little or no research carried out to ascertain how animals other than livestock perceive a transport environment. The intention of the Regulation is not to change journey times or space allowances set in

the Directive it replaces but to improve the enforceability of the legislation with a greater emphasis on competency training of drivers and attendants, ventilation, provision of GPS on long journeys and changes in ramp angles. There is no doubt that these individual aspects of the Regulation will have significant effects on the animals.

Training and competence

5.9 “The behaviour of the people who are in direct contact with the livestock, who rear and transport them, is central to the animal welfare issue and the training and qualification of personnel is of paramount importance”. (p620 Seng and Laporte, 2005). Driver behaviour is an important component of welfare outcomes of transport (Cockram et al., 2004) and development of training aids have been initiated through research at Edinburgh University for cattle, sheep and pigs.

Ventilation and temperature control

5.10 The aerial environment within a transporter has a profound effect on the physiological and behavioural reactions of animals to transportation. Temperature is a key component of the aerial environment and the Regulations will legislate that temperature shall be monitored and recorded and must be within 5-30°C \pm 5°C for long journeys. This aspect of the Regulation will ensure that animals are transported in vehicles with proper ventilation and will prevent animals experiencing excessively low or high temperatures. This is particularly important during long journeys when animals may cross temperature gradients and experience temperatures to which they have not been acclimatised. Again, there are species-specific abilities to cope with thermal challenges, for example pigs are more prone to heat stress than sheep. The Regulation specifies that no animal shall be transported over 8 hrs at 0°C, however, there is an issue as to whether animals being loaded at an ambient temperature below 0°C would receive any welfare benefit that would justify heating a vehicle prior to loading when they have come from a colder environment. However, young animals unaccompanied by their mother must be provided with adequate quantities of a bedding material appropriate to the species to ensure their thermal comfort.

Ramps

5.11 Ramp angles affect the loading and unloading of animals in vehicles that do not have an automatic tailgate. The Regulation has altered ramp angles from 29°44' (external)/33°42' to 20° for pigs, calves and horses and 26° 34' for sheep and cattle which was based on practical experience and scientific evidence that these angles ease loading and unloading for livestock and therefore potentially for stockmen.

Market benefits to improving animal welfare during transport

5.12 Transport conditions for animals not only have an impact on animal welfare but can also affect carcass and meat quality. Training may ensure improved driving abilities and a subsequent improvement in meat quality and hence an increase in profitability. Allocating a figure to this possible improvement in profitability is extremely difficult because specific research on this topic has not investigated market benefits *per se*. There is however related scientific evidence that adds weight to this train of thought.

5.13 Losses which occur during handling and transport can cause financial incentives to industry to improve their practices. There is limited UK evidence of the monetary value of downgraded carcasses, but in the USA the National Beef Quality Audit calculated that \$4.03 is lost due to bruises on every fed animal marketed (Grandin, 2000, p3). In addition, stress-related meat quality issues may cause monetary losses, for example, pale, soft, exudative (PSE) in pork meat and in 1982 cost an additional £1.13 loss at the retail level per carcass (Smith and Lesser, 1982 - cited in Grandin, 2000 pg5). However, the link between specific transporting environments and PSE is unclear and handling may have a greater influence than transportation *per se*. Therefore it is difficult to relate specific policy changes to market benefits.

5.14 Not all animals transported to go to slaughter have high value, such as end of lay hens. End of lay hens may have skeletal damage and more research is being funded by Defra to ascertain the on-farm time course of this damage. However, a study in 1989 identified 29% of a sample of 3115 from conventional cages to have at least one bone breakage before they reached the stunner (Gregory and Wilkins, 1989). However, it is unclear how specific transportation environments *per se* influence bone damage, again making it difficult to allocate a market or non-market benefit to changes in legislation. For references see footnotes⁵.

1. Costs

5.15 The following costs represent the best estimates that can be made at present based on information we have identified from industry and other sources through informal discussions and public consultation.

5.16 Costs will arise from four main areas of the Regulation:

- Authorising transporters
- Training and competence testing for drivers and attendants of livestock

⁵ Cockram MS, EM Baxter, LA Smith, S Bell, CM Howard. RJ Prescott and MA Mitchell. 2004. Effect of driver behaviour, driving events and road type on the stability and resting behaviour of sheep in transit. *Animal Science* 79: 165-176

Grandin T. 2000. Management and Economic Factors. In: *Livestock handling and transport*. Ed. T. Grandin. 2nd Edition. CABI Publishing, Wallingford, UK.

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- Vehicle standards
- Vehicle inspection and approval

1.1 Authorising Transporters (of animals over 65 Km)

5.17 Working assumption (to cover any unidentified transporters)	6,500
Cost to industry (authorisations will initially be free of charge*)	
Application fee	
£0	
Completing applications	
£38,000	
<hr/>	
Total	
£38,000	

1.2 *Charging is likely to be introduced during 2007, during which time, the cost of the authorisations could be in the order of £50.

1.3 Training and Competence

5.18 Existing training arrangements in the industry will be able to meet the Regulation's needs with small syllabus changes.

5.19 Assessment of competence is not required until 2008. Discussions continue on how best to apply such testing, but it is proposed that this can be provided by awarding bodies nominated by the Scottish Executive subject to meeting criteria including a framework of competences designed to satisfy the requirements of the Regulation and accreditation of the awarding body by expert organisations in this field. It is proposed to recognise two types of competence certificate: long distance drivers being assessed for all the required competences, including their driving skills; and others, including farmers, only being assessed for the competences relating to shorter journeys by a written test. Web-based assessment is being explored to enable easy and independent assessment for those carrying out shorter journeys.

5.20 Tests will be one off (that is, certificates are not time limited) and provided through the private sector so no Government costs. The sectors and numbers of people affected are estimated below.

professional haulage drivers	500
farmers	4,000
poultry vehicle drivers	20
horse vehicle drivers	7,000

Costs would be: Over 8 hour test –	500 at £100 = £50,000k
Under 8 hour test –	11,020 at £40 a test = £440k

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Total	
£490k	
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New ramp angles for all vehicles transporting farm animals and horses

5.21 The Regulation requires a number of vehicle standards most of which already apply through existing rules. The main change of significance for cost is shallower ramp angles aimed at reducing the difficulty and accompanying stress of loading and

unloading animals. For new vehicles the change in ramp angles should not have a significant impact on cost. Many existing vehicles however will need conversion. The cost of conversion will depend on a variety of factors (particularly size and number of decks) and can be unique to the vehicle. As such, hard data has been difficult to find and the following represents broad best estimates.

Single ramp vehicles/trailers – many should be able to convert with minor changes; others might cost up to £500.

Assumption –2,000 vehicles at £250 =	£500k
2 deck vehicle/trailers	
Assumption – 1,000 vehicles at £350 =	£350k
Multi-deck vehicles - approx. £10,000	
Assumption – 100 vehicles at £10,000 =	£1m
<hr/> Total	<hr/> £1.85m

5.22 We propose that from next year we will seek immediate compliance with the revised ramp angles to new vehicles, but propose an enforcement policy that allows time for conversion/replacement of existing vehicles (January 2012). This would enable a significant proportion of existing vehicles to reach the end of their working life. The Regulation itself is to be reviewed in 2011 and we would seek to look again at this provision and its application. Deferring new ramp angles would however relieve industry of this cost for existing vehicles. Costs of incorporating new ramp angles in newly built vehicles should not be significant.

Vehicle standards for long distance vehicles transporting farm animals and horses

5.23 The standards required are higher than those for shorter journeys and include some that are significant in relation to cost, in particular, mechanical ventilation, temperature monitoring and satellite navigation systems*. Costs are broadly estimated to be as below.

100 small vehicles at conversion cost of £1,750 a vehicle =	£175k
100 medium vehicles at conversion cost of £6,500 a vehicle =	£650k
150 large vehicles at conversion cost of £12,250 a vehicle =	£1.837m
<hr/> Total	<hr/> £2.662m

* applicable to new vehicles from January 2007 and existing vehicles from January 2009

5.23 Derogations from having to have water constantly available for pigs, insulated roofs, maintaining minimum temperature at 0°C or more when animals are being loaded, installation of some of the more sophisticated requirements of the ventilation and temperature monitoring and warning systems, and GPS tracking system could reduce these costs for all but about 50 large livestock vehicles and an unknown number of horse vehicles travelling over 12 hours or outside the UK. However it is assumed that most of these will already meet the required standards.

1.4

1.5 Vehicle Inspection and Approval

5.24 Road vehicles carrying animals on journeys over 8 hours will be required to be inspected and approved against specified standards. Approvals would be granted for five years. It is intended that inspection and approval will be carried out by bodies assessed by the United Kingdom Accreditation Service as being able to provide such inspection and approval according to rules and standards laid down by the Government in a vehicle approval scheme. This builds on existing voluntary industry run vehicle approval schemes, thus reducing the number of inspections that transporters would have been subject to.

5.25 Vehicles carrying non-farmed species are excluded from approval requirements if the animals are transported in containers which are either free standing or permanently or temporarily secured to a vehicle and forming the sole means of containing the animal. For those animals other than farm livestock and horses that are not excluded from scope, we are applying a derogation from vehicle inspection and approval.

Costs will be dependent on the fees to be charged by inspection bodies, but estimated to be as below.

Livestock and horse vehicles – 350 at £150 per inspection = £52.5k

Total	£52.5k
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Summary Costs

5.26 The largest elements of the proposals relate to vehicle specifications and are one-off costs. If derogations are applied these will defer some vehicle costs until vehicles need to be replaced anyway. Certification of competence is also a one-off cost apart from new entrants into the industry. Authorisations and vehicle inspection approval would be required every 5 years.

Authorisation per transporter (cost after first year if charging introduced)	£0 (£50)
Competence Certificate (per driver/attendant)	Over 8 hour test £100
	Under 8 hour test £40
Ramp angle conversions (per vehicle)	£250 - £10,000
Long distance vehicle standards (per vehicle)	Small Vehicle £1,750
	Medium £6,500
	Large £12,250
Vehicle Inspection & Approval (per vehicle)	£150

1.5.1 Summary of costs of options

Measures giving rise to costs	Option 1	Option 2	Option 3	Option 4
	Do nothing <i>(cannot be adopted as we would be at high risk of infraction proceedings and welfare benefits the UK sought would be lost)</i>	Full application of Regulation <i>(allows full use of maximum journey times set for each species)</i>	Full take up of derogations <i>(limits journeys to 12 hours)</i>	Selected use of derogations from long distance vehicle standards; derogation from vehicle approval for species other than non-farm livestock and horses;

				deferred implementation of new ramp angles.
Transporter authorisation (cost every 5 years once charging is in place after year 1)	0	£0 (£38k)	£0 (£38k)	£0 (£38k)
Training and competence certificates	0	£490k	£490k	£490k
New ramp angles - all vehicles	0	£1850m	£1850k	0
Vehicle standards - long distance vehicles	0	£2660k	0	£360k
Vehicle Inspection & Approval	0	£52.5k	0	£52.5k
Total costs	0	£5,052.5k (£5,090.5k)	£2,340k (£2,378k)	£902.5k (£940.5k)

Indicative costs of options for a range of businesses

5.27 The following illustrations give approximate estimated costs for a range of businesses under each of the options discussed in this document.

Farmer transporting own animals in a small trailer or 7.5 tonne vehicle on journeys to market or slaughterhouse (not for own consumption) under 8 hours:

Measures giving rise to costs	Option 1	Option 2	Option 3	Option 4
Authorisation (cost after year 1)	£0	£0 (£50)	£0 (£50)	£0 (£50)
Competence certificate	£0	£40	£40	£40
New ramp angles (per vehicle)	£0	£250	£250	£0
Long distance stds (per vehicle)	£0	£0	£0	£0
Vehicle inspection & approval	£0	£0	£0	£0
Total	£0	£290 (£340)	£290 (£340)	£40 (£90)

Commercial livestock haulier with 5 drivers and 5 vehicles transporting farmed animals between 8 and 12 hours within the UK:

Measures giving rise to costs	Option 1	Option 2	Option 3	Option 4
Authorisation (cost after year 1)	£0	£0 (£50)	£0 (£50)	£0 (£50)
Competence certificate (x5)	£0	£500	£500	£500
New ramp angles (x5 2 tier) *	£0	£1750	£1750	£0

Long distance vehicle stds (x5 medium)	£0	£32500	£0	£0
Vehicle inspection & approval (x5)	£0	£750	£0	£750
Total	£0	£35,500 (£35,550)	£2,250 (£2,300)	£1,250 (£1,300)

** Ramp angle conversion is not necessary if each tier can be level loaded and then raised.*

Commercial livestock haulier with 5 drivers and 5 vehicles transporting farmed animals over 12 hours in UK:

Measures giving rise to costs	Option 1	Option 2	Option 3	Option 4
Authorisation (cost after year 1)	£0	£0 (£50)	£0 (£50)	£0 (£50)
Competence Certificate (x5)	£0	£500	£500	£500
New ramp angles (x5 multi tier vehicles) *	£0	£50,000	£50,000	£0
Long Distance Vehicle Stds (x5 large)	£0	£61,250	£61,250	£61,250
Vehicle inspection & approval	£0	£750	£750	£750
Total	£0	£112,500 (£112,550)	£112,500 (£112,550)	£62,500 (£62,550)

** Ramp angle conversion is not necessary if each tier can be level loaded and then raised.*

6. Small Firms Impact Test

6.1 For the purposes of Regulatory Impact Assessments, a small firm is a firm who employs less than 50 people and either has less than £4.4m annual turnover or less than £3.18m annual balance sheet total.

6.2 Based on these criteria, virtually all farmers in Scotland are small firms. However, we do not know how many farmers transport livestock more than 50 kms (30 miles). We are aware that other sectors, such as road haulage, pet shops and small commercial breeders, contain many small businesses, but hard data on small firms in those sectors has been very difficult to come by.

6.3 This current assessment has been based, as well as on full public consultation, on discussions with stakeholders and umbrella organisations who represent a range of businesses and other interests. These included the Scottish National Farmers' Union, the Road Haulage Association, the British Horse Industry Confederation, the National Sheep Association, the Livestock Hauliers Association, the Livestock Auctioneers' Association the British Poultry Council, the British and Irish Association of Zoos and Aquariums, Dogs Trust, and greyhound and racing pigeon bodies. .

6.4 We have considered how we can minimise cost burdens to small firms in connection with vehicle standards, ramp angles and vehicle approval whilst at the same time ensuring

welfare is not compromised. This cannot be achieved by exemptions from the Regulation but derogations and deferral described in the options discussed in Section 5 above (Costs and Benefits) achieve the maximum degree of proportionality.

7. Competition assessment

7.1 Application of the Regulation should improve uniform enforcement of standards in all Member States. This will help ensure that UK transporters are not disadvantaged by lower standards of treatment and enforcement being applied by competitors in other Member States (an often made criticism under the existing Directive).

7.2 However, full, immediate implementation of provisions relating to vehicle standards and new ramp angles could significantly affect the competitive position of small businesses but mitigating measures are proposed to avoid this.

8. Enforcement, sanctions and monitoring

8.1 Primary enforcement is currently and will remain with Local Authorities, and with the State Veterinary Service carrying out certain agreed checks which are risk based coupled with targeted and intelligence led investigations.

8.2 It is believed that overall the implementation of Council Regulation (EC) No. 1/2005 will be cost neutral for carrying out enforcement checks and taking any sanctions against non compliance but there is a cost in monitoring checks and sanctions through changes to the enforcement system database.

8.3 Council Regulation (EC) No. 1/2005 has common enforcement objectives with current welfare in transport rules, e.g. animals must not be caused unnecessary suffering and animals must be fit for their journey

8.4 The new Regulation does introduce new requirements:

- all transporters of any vertebrate animals must hold an authorisation if travelling over 65 km (not just over 8 hours as at present for livestock and horses);
- all transporters must carry their authorisation certificates;
- long journey transporters of farmed livestock and horses required to have their vehicles approved;
- transporters of livestock horses and poultry over 65 km must have training and certificates of competence; and
- long journey transporters must carry their vehicle approval and competence certificates.

8.5 The extension of the Regulations to non-farmed species will result in a small increase the number of inspections and the requirements to carry documents will increase slightly the time spent checking documents at point of inspection. However, this should be offset through the benefits of competence training and vehicle approval leading to a reduction in the amount of enforcement action taken and the time needed to carry out the compliance checks

8.6 There are no plans to change the penalties that can be imposed through prosecutions which will remain at Level 5 (i.e. a fine of up to £5,000 and/or 6 months imprisonment on summary conviction). Enforcement action short of this will initially continue to include serving Statutory Notices, giving written or oral warnings or taking regulatory action by revoking, suspending or putting conditions on a transporter's authorisation for serious or repeat infringements.

8.7 Compliance checks (and transporter authorisations) are currently recorded by Local Authorities on the Defra internet based Animal Health and Welfare Management and Enforcement System (AMES) and this will continue for now. In order to comply with the Regulation and better inform enforcement action, a number of changes have been made to the database to allow for better monitoring of transporter activities and to make the statutory return of enforcement activities to the European Commission. The cost of these changes, including system maintenance for the next five years is £100,000 and will be met by Defra.

1.6

9. Implementation and delivery plan

9.1 The Welfare of Animals (Transport) (Scotland) Order 2006 will come into force in Scotland in January 2007. Parallel legislation is being prepared in England, Wales and Northern Ireland. Detailed guidance for the general public and enforcement officers has been available from October and will continue to be refined. A publicity campaign also commenced in October including posters, advertisements in trade journals.

9.2 Applicants have been able to apply for transporter authorisations from November and formal vehicle approval will commence from December.

10. Post-implementation review

10.1 The Commission are committed to reviewing the Regulation in 2011. The UK will press the Commission to undertake this on time and to provide an impact assessment of any resulting proposals to amend the Regulation.

11. Summary and recommendation

Option	Total benefit per annum: economic, environmental, social	Total cost per annum: - economic, environmental, social - policy and administrative
1	Not financially quantifiable	£0
2	Not financially quantifiable	£5,052.5k (£5,090.5k including charge for authorisation)
3	Not financially quantifiable	£2,340k (£2,378k including charge for authorisation)
4	Not financially quantifiable	£902.5k (£940.5k including charge for authorisation)

11.1 The approaches outlined in options 1 – 4 in section 4 are based on the best estimates possible from the limited information provided by industry in discussions with officials and formal consultation.

11.2 Option 4 is the approach adopted making use of available derogations where welfare will not be compromised. It also provides for phased implementation of the costly conversion of vehicles to provide shallower ramp angles. Although there is some justification for these, costs outweigh welfare benefits and there is no substantiated evidence of the ramp angles currently used causing poor welfare.

11.3 This approach follows better regulation principles and has been cleared by the departmental Better Regulation Unit, the Small Business Service and Cabinet Office. It minimises burdens as far as possible without compromising welfare and laying the UK open to infraction procedures.

11.4 It is recommended that this Regulatory Impact Assessment is signed, so allowing the Order necessary to apply the provisions of Council Regulation (EC) No 1/2005 to be made.

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

Signed:

Date:

ROSS FINNIE
Minister for Environment and Rural Development