

POLICY NOTE

THE WELFARE OF ANIMALS AT THE TIME OF KILLING (SCOTLAND) REGULATIONS 2012

SSI 2012/321

1. These Regulations are made by the Scottish Ministers in exercise of the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972 and section 56(1) of the Finance Act 1973. They are subject to negative procedure.

Policy Objective

2. These Regulations make provision in Scotland for the implementation of Council Regulation (EC) No 1099/2009 on the protection of animals at the time of killing.
3. The Regulation comes into force on 1 January 2013 and lays down new rules for the killing of animals bred or kept for the production of food, wool, skin, fur or other products as well as the killing of animals for the purpose of depopulation and operations related to such killing.
4. Although Regulation 1099/2009 is directly applicable in Scots law, it is necessary to make legislative provision to ensure that the Regulation can be properly enforced, with proportionate, dissuasive and effective penalties and sanctions.

Policy background

5. Animal welfare at the time of slaughter or killing is currently subject to the requirements of Council Directive 93/119/EC which was transposed by the Welfare of Animals (Slaughter or killing) Regulations 1995 (“the 1995 Regulations”). However, specific problems were identified with Directive 93/112/EC such as the lack of harmonised methodology for new stunning methods, the lack of clear responsibilities for Business Operators regarding animal welfare, insufficient provision for competence of personnel handling animals and inadequate conditions for the welfare of animals during killing for disease purposes. For those reasons, in 2008 the European Commission brought forward proposals to replace Council Directive 93/119/EC with a Regulation.
6. Regulation 1099/2009 comes into effect on 1 January 2013, with the exception of certain measures in relation to layout, construction and equipment in existing slaughterhouses which will not come into effect until December 2019.
7. The key objective of the Regulation is to improve the protection of animals at the time of killing, whilst ensuring a level playing field for all Business Operators concerned, so that their competitiveness is not affected by discrepancies in their productive costs or their market access.

8. Regulation 1099/2009 acknowledges that some European countries have higher welfare standards than others and, for this reason, it allows Member States to retain national rules to maintain existing welfare protection where this offers a higher standard of protection than those required by the Regulation. It also allows new, stricter national rules to be introduced to increase welfare protection in relation to religious slaughter, farmed game and killing outside a slaughterhouse.

National Rules

9. National rules being maintained must be notified to the Commission before Regulation 1099/2009 comes into effect on 1 January 2013, otherwise the rules will be lost and Member States will not have a chance to reintroduce them later. In addition to implementing and enforcing Regulation 1099/2009, the new domestic Regulations will maintain all national rules that go beyond the requirements of Regulation 1099/2009.
10. Retaining all national rules will ensure that high standards of animal welfare are maintained while the results of the formal consultation are being analysed. This strategy will also provide sufficient time for proper consideration and further consultation with stakeholders if it is considered that adjustments to rules may be required. In this event, amending legislation will be taken forward.

New, Stricter Rules

11. There is no time limit with regard to the possible introduction of new, stricter rules to improve welfare in the areas of religious slaughter, slaughter outside a slaughterhouse and/or the slaughter of farmed game so there is flexibility here to consider any suggestions put forward at a later date.

Key Requirements of Regulation 1099/2009 that amount to New Policy

12. Regulation 1099/2009 contains requirements that are not in the 1995 Regulations that will be directly applicable in all Member States, affecting all Food Business Operators involved in slaughtering pigs, poultry, cattle, sheep and other species. In particular, Business Operators will be required to: -
 - draw up and implement Standard Operating Procedures;
 - ensure equipment is maintained in accordance with manufacturer's instructions and a record is maintained;
 - introduce and implement monitoring procedures in slaughterhouses;
 - designate an Animal Welfare Officer for every slaughterhouse above a minimum size;
 - ensure all persons working with live animals, including lairage staff and live poultry shacklers, in a slaughterhouse hold a Certificate of Competence; and
 - ensure every Animal Welfare Officer holds a Certificate of Competence for every activity for which he or she is responsible.
13. A full list of all the measures that amount to new policy being introduced by the Regulation and a brief explanation of the key requirements is at Annex 1.

Consultation

14. A series of focus groups representing stakeholders were held in the spring of this year. The following bodies were consulted: The Scottish Association of Meat Wholesalers, The Scottish Federation of Meat Traders, NFU Scotland, The British Poultry Council, The Licensed Animal Slaughterers and Salvage Association, The Association of Non-Stun Abattoirs, Halal Chicken Services, Glasgow Central Mosque; The Halal Food Authority, The Muslim Council of Britain, The Muslim Council of Scotland; The Scottish Council of Jewish Communities; The Humane Slaughter Association; The Scottish Society for the Prevention of Cruelty to Animals and many other welfare organisations.
15. In addition, a public consultation took place from 29 August to 26 October 2012. The consultation paper was issued to over 430 stakeholders, interested organisations and individuals; responses are still being collated. Responses in relation to Certificates of Competence and enforcement / penalties have been considered but the full analysis will not be available until after Regulation 1099/2009 comes into effect.

Impact Assessments

16. An equality impact assessment has not been completed because the preferred option for implementing Regulation 1099/2009 will have no impact on age, race, disability or gender. Similarly, the preferred option does not impose any restriction or requirement which a person of a particular age, racial background, disability or gender would find difficult to comply with. With the exception of the provisions on religious slaughter, these conditions apply equally to all individuals and businesses involved in the activities covered.
17. The preferred option makes specific provision for slaughter of animals in accordance with religious rites and will have an impact on the Jewish and Muslim communities. Regulation 1099/2009 requires all animals to be killed instantaneously following stunning; however, animals slaughtered in accordance with the Jewish and Muslim faiths may be killed by bleeding without prior stunning. This exemption allows people of the Jewish and Muslim faiths to eat meat slaughtered in accordance with their religious beliefs.

Financial Effects

18. A Business and Regulatory Impact Assessment (BRIA) has been completed and is attached. The impact of this policy on business is that Regulation 1099/2009 introduces directly applicable obligations which will have associated costs for the Industry. Maintaining the status quo with regard to national rules will not have any cost implications.

Scottish Government
Agriculture, food and Rural Communities Directorate

November 2012

Annex 1

New requirements of Regulation 1099/2009 - Groups and Sectors Affected

1. Regulation 1099/2009 will affect all Food Business Operators in Scotland involved in slaughtering poultry, pigs, cattle, sheep and other species. In addition, Regulation 1099/2009 will impact on on-farm slaughter operations licensed to undertake seasonal slaughter of poultry. It will impact on livestock, poultry and egg producers and others involved in killing animals outside a slaughterhouse. There will also be an impact on companies manufacturing equipment for use in slaughterhouses and Government Agencies (The Food Standards Agency and the Animal Health Veterinary Laboratories Agency) responsible for approving facilities, verification and enforcement activities and supervision of depopulation operations.

Measures that amount to new policy and will apply from 1 January 2012

2. General requirements
 - Draw up and implement Standard Operating Procedures (SOPs)
 - Ensure all persons working with live animals (including lairage staff and live poultry shacklers) in a slaughterhouse hold a Regulation 1099/2009 compliant Certificate of Competence (CoC)
 - Provide instructions for the use of restraining and stunning equipment
 - Ensure equipment is maintained in accordance with manufacturer's instructions and a record is maintained
 - Develop and disseminate Guides to Good Practice

Requirements applicable to slaughterhouses

- Ensure all animals slaughtered in accordance with religious rites are individually restrained
- Ensure ruminants slaughtered in accordance with religious rites are mechanically restrained
- Permit inversion of cattle when slaughtered in accordance with religious rites
- Introduce and implement monitoring procedures in slaughterhouses
- Designate an Animal Welfare Officer for every slaughterhouse above a minimum size
- Ensure Animal Welfare Officers hold a certificate of competence for every activity for which they are responsible

Stunning methods

- Use specific currents and frequencies to stun poultry in an electric water bath
- Restrict use of cervical dislocation to slaughter poultry

Measures that amount to new policy and will apply from 8 December 2019

Layout, construction and equipment in slaughterhouses

- Ensure automatic stunning equipment delivers a constant current
- Ensure lines used to shackle live poultry incorporate breast comforters

- Ensure birds are not suspended live for more than 1 minute (ducks, geese and turkeys - 2 minutes)
- Ensure electrical and gas stunning equipment is fitted with a device to record key parameters. Records must be kept for one year

Standard Operating Procedures (SOPs)

3. Regulation 1099/2009 requires Food Business Operators involved in any form of killing or related operations, which would cover lairage staff and live poultry shacklers, to prepare SOPs regardless of the size of their business. SOPs must be in place by 1 January 2013 when Regulation 1099/2009 comes into effect.
4. Food Business Operators inexperienced in the drawing up of appropriate and acceptable SOPs may refer to the red meat and white meat slaughter activities guides to good practice, which are currently being drafted by the British Meat Processors Association and the British Poultry Council respectively. The generic SOPs in these guides can be adapted for use by all Food Business Operators. The guides to good practice will be sent to Food Business Operators when they have been finalised and validated by the Competent Authority.
5. Food Business Operators must make their SOPs available on request to enforcement authorities, who will have the right to require SOPs to be amended if they do not adequately and appropriately cover the planned killing of animals and related operations.

Maintain Equipment in Line with Manufacturers' Instructions

6. Regulation 1099/2009 requires all Food Business Operators to ensure that all equipment used for restraining or stunning animals is maintained and checked in accordance with the manufacturers' instructions by persons specially trained for that purpose.
7. Food Business Operators must keep a record of all maintenance and retain this for at least one year. The record must be made available to the competent authority upon request.

Monitoring Procedures in Slaughterhouses

8. Regulation 1099/2009 requires Food Business Operators to implement monitoring procedures in slaughterhouses to ensure that animals do not present any signs of consciousness or sensibility in the period between the end of the stunning process and death.

Animal Welfare Officer (AWO)

9. Regulation 1099/2009 requires Food Business Operators to designate an AWO for every slaughterhouse above a minimum size and will require the AWO to record details taken to improve welfare. The AWO must keep a record of the action taken to improve animal welfare in the slaughterhouse in which he or she carries out tasks.

10. The AWO shall be under the direct authority of the Food Business Operator and shall report directly to him or her on matters relating to the welfare of the animals. The responsibilities of the AWO must be set out in the SOPs of the slaughterhouse and effectively brought to the attention of the personnel concerned.
11. Slaughterhouses that slaughter less than 1000 livestock units of mammals or 150,000 birds or rabbits per year will not need to appoint an AWO.
12. Some slaughterhouses may already have an AWO in place. Some may need more than one AWO depending on the size of the business e.g. to cover different areas; to provide holiday cover etc.

Certificates of Competence (CoC)

13. Regulation 1099/2009 requires every person undertaking the following slaughter operations to hold a CoC (where slaughter means killing for human consumption):
 - The handling and care of animals before they are restrained.
 - The restraint of animals for the purpose of stunning or killing.
 - The stunning of animals.
 - The assessment of effective stunning.
 - The shackling or hoisting of live animals.
 - The bleeding of live animals.
 - The slaughtering in accordance with Article 4(4) (Religious slaughter).
 - The supervision of the killing of fur animals (not relevant in Scotland)
14. This extends the scope of the previous WASK slaughter licence requirements to include staff in lairage, live poultry shacklers and those killing with a free bullet in the field for human consumption.
15. Article 21(7) of Regulation 1099/2009 allows Member States to recognise qualifications obtained for other purposes as equivalent to CoCs for the purposes of this Regulation, provided that they have been obtained under conditions equivalent to those laid down in Article 21. It is intended to utilise this ability as part of the transitional arrangements for existing workers. Industry workers who currently hold a WASK licence will not need to take any immediate action since they will be able to work on in the Slaughter Industry in Scotland for a limited time period (possibly 12 months) before having to exchange their licence for a CoC, for which they will be charged a fee. Workers without a WASK licence (lairage workers for example) will be assessed by an authorised person and issued with a time limited CoC before 1 January 2012; these will need to be exchanged, again for a fee, for a full CoC before the end of the time limit.
16. New workers to the Slaughter Industry must obtain a temporary CoC which will permit them to work for up to 3 months under the supervision of a person holding a full CoC for that activity. Before being able to obtain a temporary CoC the person must register on a training course approved for the purposes of Regulation 1099/2009.

Animal Welfare Officer/Certificates of Competence

17. Every AWO, regardless of whether already in place or newly appointed, will need to obtain a CoC that covers every activity that requires a CoC, for which he or she is responsible for overseeing.