

**EXPLANATORY MEMORANDUM TO**  
**THE WELFARE OF ANIMALS (SLAUGHTER OR KILLING) (AMENDMENT)**  
**(ENGLAND) REGULATIONS 2012**

**2012 No. 501**

1. This explanatory memorandum has been prepared by the Department for Environment, Food & Rural Affairs and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

- 2.1 These Regulations, which apply to England only, amend the Welfare of Animals (Slaughter or Killing) Regulations 1995 (“the 1995 Regulations”). The 1995 Regulations give effect to Council Directive 93/119/EC on the protection of animals at the time of slaughter or killing (OJ No. L 340, 31.12.93, p.21).

- 2.2 These Regulations introduce changes to:

- permit the use of a biphasic carbon dioxide gas mixture to kill poultry in slaughterhouses;
- extend the range of birds that can be killed by gas mixtures on premises where they have been kept for the production of meat or eggs to include not only end-of-lay and end-of-life breeder hens but also domestic fowl, turkeys, pheasants, quail, partridges, geese, ducks and guinea fowl; and
- allow prosecutions for infringements of the 1995 Regulations to be brought up to six months after the prosecutor is given sufficient evidence to justify proceedings.

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

None.

**4. Legislative Context**

- 4.1 Schedule 7 of the 1995 Regulations, as it applies in England, is amended to permit the use of a biphasic carbon dioxide gas mixture, as well as inert gas mixtures, to kill poultry in a slaughterhouse. Schedule 7A of the 1995 Regulations as it applies in England is amended to remove the restriction in Part II which limited the killing of birds on-farm by gas, to end-of-lay and end-of-life breeder hens only. The range of birds that may be killed on-farm by gas has been extended to include all domestic fowl, turkeys, pheasants, quail, partridges, geese, ducks and guinea fowl.

A new regulation 26A has been inserted in the 1995 Regulations to extend the time limit for bringing a prosecution under the 1995 Regulations. Whereas before an offence had to be brought to the attention of the prosecutor within six months of the alleged offence being committed, prosecutions may now be brought within three years of the date an offence was committed and before six months after the prosecutor is given sufficient evidence to justify proceedings.

**5. Territorial Extent and Application**

This instrument applies to England.

## **6. European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

- 7.1 Following requests from industry, the 1995 Regulations have been amended to permit the use of a biphasic gas mixture in slaughterhouses to kill poultry in line with latest scientific evidence, Farm Animal Welfare Council recommendations and the implementation of Council Directive 93/119/EC by other Member States. The industry is also seeking this change to enable investment decisions to be made in advance of measures to implement Council Regulation (EU) 1099/2009 on the protection of animals at the time of killing which comes into force on 1 January 2013.
- 7.2 The change in relation to gas culling on-farm responds to pressure from the poultry industry for wider access to on-farm culling methods involving the use of gas. This reflects concerns about the use of manual culling methods (e.g. neck dislocation), which requires the killing of birds individually. This is time consuming and resource intensive. It also increases the culling time where there is a need to cull large numbers of birds e.g. in response to a salmonella positive flock which is no longer commercially viable. The change proposed will allow a greater range of birds to be killed by gas mixtures on premises where they have been kept for the production of meat or eggs to include not only end-of-lay and end-of-life breeder hens but also domestic fowl, turkeys, pheasants, quail, partridges, geese, ducks and guinea fowl. This will improve welfare and is expected to increase industry resilience when dealing with emergencies involving culling of large numbers of birds.
- 7.3 The time limit for bringing a prosecution under the 1995 Regulations has been extended as a result of difficulties which arose when prosecuting welfare offences where evidence of the offence was provided by a third party some time after the offence occurred. These changes bring the 1995 Regulations in line with enforcement of other welfare legislation, such as the Animal Welfare Act 2006.

## **8. Consultation outcome**

A formal consultation took place between 9th August and 20th September 2011. There was broad support for the proposal to widen the use of gas on-farm to cull a greater range of birds and to extend the time limit for bringing a prosecution under the 1995 Regulations. However a number of concerns were raised by welfare groups, including the RSPCA and Compassion in World Farming, about the proposed introduction of a biphasic carbon dioxide gas mixture in slaughterhouses to kill poultry. There was particular concern about a possible compromise to welfare if the phase 1 gas mixture was restricted to a mixture of carbon dioxide above 30% in volume and air. Changes have therefore been made to permit the mixing of carbon dioxide with other gases allowing use of more welfare-friendly hyperoxygenated gas mixtures.

## **9. Guidance**

No specific guidance will be issued to underpin the changes made. These changes respond to industry requests for changes and extensive discussions have been held with industry representatives to ensure they understand the nature of the changes being made.

## **10. Impact**

- 10.1 These changes will reduce regulatory burdens on business.

- 10.2 The change to prosecution time limits might impact on the public sector by increasing the number of prosecutions brought for infringements of the 1995 Regulations. However this impact is expected to be very limited as prosecution cases under the 1995 Regulations currently average just 2 – 3 per year.
- 10.3 An Impact Assessment is attached to this memorandum and will be published alongside the Explanatory Memorandum on [www.legislation.gov.uk](http://www.legislation.gov.uk).

## **11. Regulating small business**

- 11.1 This legislation does apply to small business.
- 11.2 These changes are deregulatory and will reduce the impact of existing legislation on firms employing up to 20 people.

## **12. Monitoring and review**

The 1995 Regulations will be reviewed from time to time by the Secretary of State to assess the extent to which the objectives of the Regulations have been achieved in England and to assess whether the objectives remain appropriate and can be achieved in a less burdensome way. Following each review, the Secretary of State is required to report the conclusions of that review and publish the report.

## **13. Contact**

The Defra Animal Welfare Team ([rob.peters@defra.gsi.gov.uk](mailto:rob.peters@defra.gsi.gov.uk)) can answer any queries about the instrument:

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