

## **EXECUTIVE NOTE**

### **THE PROHIBITED PROCEDURES ON PROTECTED ANIMALS (EXEMPTIONS) (SCOTLAND) AMENDMENT REGULATIONS 2011 SSI 2011/DRAFT**

The Prohibited Procedures on Protected Animals (Exemptions) (Scotland) Amendment Regulations 2011 are made by the Scottish Ministers in exercise of powers conferred by section 20(5)(b) of the Animal Health and Welfare (Scotland) Act 2006 (the Act) which allows Scottish Ministers to specify procedures which will not be covered by section 20 of the Act, and all other powers enabling them to do so.

The instrument is subject to the affirmative resolution procedure and thus must be laid in draft before, and approved by, the Scottish Parliament.

#### **Policy Objectives**

The purpose of this instrument is to make amendments to the Prohibited Procedures on Protected Animals (Exemptions) (Scotland) Regulations 2010.

The table of Destination and Derivation at **Annex A** lists the changes which amount to new policy.

#### **Background to the Changes Which Amount to New Policy**

Section 20(1) of the Act makes it an offence to carry out a prohibited procedure on a protected animal and section 20(4) of the Act defines a prohibited procedure as a procedure which involves interference with the sensitive tissue or bone structure of the animal. Section 20(5) exempts procedures which are carried out for the purpose of medical treatment from the prohibition, and Scottish Ministers can exempt other procedures by regulation. The Prohibited Procedures on Protected Animals (Scotland) Regulations specify the non-medical procedures which are exempt from the general prohibition.

When the Prohibited Procedures on Protected Animals (Exemptions) (Scotland) Regulations 2010 were made (amending and consolidating earlier legislation), certain conditions were not included in some of the Schedules in order to avoid duplication with other legislation. Two conditions, one relating to the short tail docking of sheep and the other relating to antler removal in deer, were not included because they were already contained in the Welfare of Livestock (Prohibited Operations) Regulations 1982. Unfortunately, as it was later noted, the Welfare of Livestock (Prohibited Operations) Regulations 1982 had actually been revoked by the 2007 Prohibited Procedures Regulations and the conditions transferred. Now these conditions, which were excluded from the 2010 Prohibited Procedures Regulations in error, must be put back as soon as possible.

## **Amendments Which Amount to New Policy**

The following paragraphs set out the amendments to the instrument which amount to new policy:

### *Short Tail Docking of Sheep – Schedule 4*

Up until 4<sup>th</sup> of November 2010, it was an offence to short tail dock sheep. This condition was not included in Schedule 4 of the Prohibited Procedures on Protected Animals (Exemptions) (Scotland) Regulations 2010 due to an oversight and has to be reinserted.

When sheep are tail docked, sufficient tail must be retained to cover the vulva in the case of female sheep and the anus in the case of male sheep. This is necessary for the health and welfare of the animal to protect these sensitive areas from flies and infection.

### *Antler Removal in Deer – Schedule 7*

Up until 4<sup>th</sup> of November 2010, it was an offence to remove antlers from a deer unless the velvet was frayed and the greater part of it shed. This condition was not included in Schedule 7 of the Prohibited Procedures on Protected Animals (Exemptions) (Scotland) Regulations 2010 due to an oversight and has to be reinserted.

Antler removal from deer may only be performed where the velvet is frayed and the greater part of it shed. This is because the velvet covering of the growing antler is sensitive to pain until that time.

## **Consultation**

As is required by the Animal Health and Welfare (Scotland) Act 2006, a consultation was undertaken regarding the reinsertion of these conditions and 4 responses were received. No objections were raised.

## **Financial Effects**

A Business and Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on the costs of business, charities or the voluntary sector.

**Rural and Environment Directorate  
Animal Health and Welfare Division  
17 December 2010**

## Annex A

### Table of Destination and Derivation (The Prohibited Procedures on Protected Animals (Exemptions) (Scotland) Regulations 2010)

Table of Destinations and Derivations which indicates the link between the previous legislative provisions and those in the 2011 amendment regulations.

<i>Derivation</i>	<i>Destination</i>	<i>Note of Amendments and Remarks</i>
<i>The Prohibited Procedures on Protected Animals (Exemptions) (Scotland) Regulations 2010</i>	<i>The Prohibited Procedures on Protected Animals (Exemptions) (Scotland) Amendment Regulations 2011</i>	
Schedule 4 - paragraph 12	Schedule 4 - paragraph 12	Condition inserted – 3) Docking may only be performed where sufficient tail is retained to cover the vulva in the case of female sheep and the anus in the case of male sheep
Schedule 7 - paragraph 9	Schedule 7 - paragraph 9	Condition inserted – Antler removal may only be performed where the velvet is frayed and the greater part of it shed.