

EXPLANATORY MEMORANDUM TO
THE WELFARE OF ANIMALS AT THE TIME OF KILLING (ENGLAND)
REGULATIONS 2015

2015 No. 1782

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

2. Purpose of the instrument

The *Welfare of Animals at the Time of Killing (England) Regulations 2015* (“the WATOK Regulations”) enforce the requirements of Council Regulation (EC) 1099/2009 of 24 September 2009 *on the protection of animals at the time of killing* (“the EU Regulation”). The EU Regulation introduces a series of new, directly-applicable operational requirements, and requirements for the construction, layout and equipment of slaughterhouses.

The EU Regulation also permits Member States to maintain existing national rules that were in force at the time the EU Regulation came into force, where they provide greater protection for animals at the time of killing than those contained in the EU Regulation, and provides a derogation for Member States to allow religious slaughter without prior stunning. The WATOK Regulations therefore maintain national rules, including national rules on religious slaughter without prior stunning.

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

The *Welfare of Animals at the Time of Killing Regulations 2014* (“the 2014 WATOK Regulations”) were due to come into force in England on 20th May 2014 but *The Welfare of Animals at the Time of Killing (Revocation) Regulations 2014* (“the Revocation Regulations”) came into force on 19th May 2014 and revoked the 2014 WATOK Regulations before they came into force. After making the 2014 WATOK Regulations, the Government decided that the potential impact on some limited aspects of religious slaughter needed further consideration and that it was preferable to revoke the 2014 WATOK Regulations in order to give full consideration to the relevant issues. The 2014 WATOK Regulation was considered by the House of Lords Secondary Legislation Scrutiny Committee – Third Report Session 2014-2015 at B at pages 6-8 at:

<https://www.ipsea.org.uk/file-manager/news/News2014/3rd-report-of-secondary-legislation-committee.pdf>

The WATOK Regulations now differ from the 2014 WATOK Regulations in that the previous regulations had the effect of requiring animals which are stunned before killing in accordance with religious rites to be stunned in accordance with the parameters in

Annex I of the EU Regulation. This change to the WATOK Regulations does not remove the requirement for all stunning to be effective as required by Article 5(1) of the EU Regulation.

Schedule 6 of the WATOK Regulations makes consequential amendments on behalf of England, Wales and Scotland. It also revokes the *Welfare of Animals at the Time of Killing (Consequential Amendments) (Wales) Regulations 2014* which made consequential amendments now superseded by the other provisions in Schedule 6.

4. Legislative Context

4.1 The WATOK Regulations provide for the administration and enforcement in England of the EU Regulation which came into force on 1st January 2013 (although some measures in relation to layout, construction and equipment in certain slaughterhouses do not come into effect until 8th December 2019). In particular, the WATOK Regulations:

- set out the requirements for EU certificates of competence and temporary certificates to undertake certain operations in slaughterhouses in Chapters 1 and 3 of Part 2, including a simplified procedure for issuing certificates of competence to persons who have three years professional experience in Schedule 7;
- set out the requirements for national licences to undertake certain operations outside slaughterhouses in Chapters 2 and 3 of Part 2;
- maintain national rules in Schedules 1, 2 and 4 that were in force on 8th December 2009 where they afford greater welfare protection to animals at the time of killing;
- maintain national rules in Schedule 3 for animals slaughtered in accordance with religious rites;
- retain transitional provisions in Schedule 8 that will continue to apply to slaughterhouses that were in operation before 1st January 2013. These will apply until 8th December 2019; thereafter the rules in Annex II of the EU Regulation will apply;
- enforce the directly applicable obligations in the EU Regulation and national rules, including giving powers to inspectors, and list the offences and penalties applicable for failing to comply with these requirements in Part 6;
- make consequential amendments to primary and secondary legislation on behalf of England, Wales and Scotland in Schedule 6;
- revoke the *Welfare of Animals at the Time of Killing (Consequential Amendments) (Wales) Regulations 2014*; and
- revoke the *Welfare of Animals (Slaughter or Killing) Regulations 1995* (S.I. 1995/731) insofar as they apply to England in Part 7.

4.2 Separate legislation has been introduced in Scotland, Wales and Northern Ireland.

Ambulatory references

- 4.3 It is considered expedient that references in the WATOK Regulations to the Annexes to the EU Regulation should be construed as references to those Annexes as amended from time to time. Ambulatory references are deemed necessary to ensure the EU obligations in the Annexes (which are of a technical nature and may be subject to regular updating) are fully implemented and directly enforceable in England without the need for further legislation.

EU Scrutiny

- 4.4 The EU Regulation was first considered by the EU Scrutiny Committees in May 2009. It was cleared by the House of Lords Scrutiny Committee in July 2009 and by the House of Commons Committee in August 2009.

5. Territorial Extent and Application

WATOK applies to England. Amendments made by Schedule 6 (consequential and supplementary amendments and revocation) have the same extent and application as the enactment amended.

6. European Convention on Human Rights

George Eustice MP, Minister of State for Environment, Food and Rural Affairs has made the following statement regarding Human Rights:

“In my view the provisions of The Welfare of Animals at the Time of Killing (England) Regulations 2015 are compatible with the Convention rights.”

7. Policy background

7.1 The EU Regulation applies to all animals killed for the production of meat or other products in a slaughterhouse or on farm. It also applies to depopulation operations such as disease control. The EU Regulation aims to ensure that animals (including poultry and fish, but excluding reptiles and amphibians) are spared any avoidable pain, distress or suffering at the time of killing. All animals to which the EU Regulation applies (apart from fish) must be stunned before killing except where slaughter is carried out in accordance with religious rites. Article 26 of the EU Regulation provides that Member States may maintain any national rules which provide more extensive protection than the EU Regulation and which were in force on 8th December 2009. It also allows national rules to be introduced by individual Member States for killing outside of a slaughterhouse, slaughtering farmed game, and religious slaughter.

7.2 Welfare of animals at the time of killing was previously subject to the requirements of Council Directive 93/119/EC, implemented in Great Britain through *The Welfare of Animals (Slaughter or Killing) Regulations 1995*, (WASK). WATOK repeals WASK insofar as it applies to England but will retain

all current national rules that provide greater welfare protection than those contained in the EU Regulation including rules on religious slaughter.

8. Consultation outcome

8.1 A six-week public consultation ran from 13th September 2012 on proposals to implement the EU Regulation in England. This consultation followed a previous consultation in 2009 and extensive engagement with interested parties during 2011 and 2012. A shorter period of consultation was used because of these previous rounds of consultation.

8.2 The 2012 public consultation sought views from food business operators, livestock and poultry keepers, veterinary organisations, animal welfare groups, local authorities, faith groups and members of the public. There were 446 responses received. An additional 300 responses were received campaigning in support of compulsory CCTV in slaughterhouses; 140 responses received disagreed with the suggestion that slaughterhouses are best placed to decide monitoring tools suitable to their individual circumstances; and almost 80 individuals campaigned for tighter controls on meat from animals slaughtered for religious purposes.

8.3 The 2012 consultation demonstrated concern amongst welfare groups, veterinary organisations and the public about any weakening of existing welfare protection for animals at killing. Industry raised concerns about the impact on business and possible loss of flexibility.

Key issues raised were:

- Maintaining existing national rules which provide more extensive protection than the EU Regulation. Welfare groups and the public were basically supportive whilst industry was broadly opposed to retention of national rules but were keen to see a common approach across the whole of the UK.
- Certificates of competence. There was considerable criticism of proposed arrangements, especially from small-scale poultry producers, who considered arrangements to be overly bureaucratic and expensive. However, welfare organisations and the public wanted a robust system.
- Compulsory installation of CCTV at slaughterhouses. There were two campaigns supporting this and general support from welfare groups and the public; the slaughter industry was opposed.
- Religious slaughter. Strong pressure from welfare groups, veterinary organisations and public for a ban on slaughter without stunning. Religious community representatives commented on some points of detail in the proposals.
- Method of slaughter labelling. Strong support by welfare groups, the public and some religious community representatives but widely opposed by industry. This issue is outside the scope of the consultation.
- The consultation itself was criticised by some for only being for a six-week duration and for its complexity.

8.4 A full summary of responses to the consultation and the consultation response was published on the Government website:

<https://www.gov.uk/government/consultations/welfare-of-animals-at-the-time-of-killing>

9. Guidance

Defra is producing guidance on welfare at the time of killing legislation to aid individuals on their understanding of the interaction between the EU Regulation and WATOK. In addition, Guides to Good Practice have been produced by the British Meat Processors Association, for red meat, and by the British Poultry Council, for poultry meat, in consultation with the Department and key stakeholders, in accordance with Article 13 of the EU Regulation.

10. Impact

10.1 The impact on business, charities or voluntary bodies is minimal in terms of financial costs as there is no additional cost of the WATOK Regulations compared with the *status quo* but there will be an overall higher standard of welfare at the time of killing for animals through effective enforcement of the EU Regulation.

10.2 The impact on the public sector is negligible.

10.3 An Impact Assessment is published alongside the Explanatory Memorandum on www.legislation.gov.uk.

11. Regulating small business

The legislation applies to small business. WATOK replicates existing regulation so it does not increase costs relative to the *status quo* and is not regarded as gold-plating. Costs to business arise as a consequence of WATOK enforcing the EU Regulation.

12. Monitoring and review

The Secretary of State will conduct an internal review of the application of this statutory instrument within a period of five years from the date it comes into force and a report will be published. The report will consider how the objectives of WATOK have been met, in particular, by taking account of regular reports from the Food Standards Agency and the Animal and Plant Health Agency. In carrying out the review, consideration will also be given to how the EU Regulation is enforced in other Member States.

13. Contact

The Animal Welfare team at the Department for Environment, Food and Rural Affairs email: Animal.Welfare@defra.gsi.gov.uk can answer any queries regarding the instrument.