EXPLANATORY MEMORANDUM TO

THE DRAFT CODE OF PRACTICE FOR THE WELFARE OF LAYING HENS AND PULLETS

1. Introduction

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

2. Purpose of the instrument

2.1 The Code of Practice for the Welfare of Laying Hens and Pullets (the "Code of Practice") provides updated and improved guidance to owners and keepers of laying hens and pullets on how to comply with the relevant farm animal welfare legislation and how to practise good standards of stockmanship to help enhance the welfare of their animals, in line with the most recent scientific, veterinary and husbandry advice.

2.2 It is intended it will replace the Code of Recommendations for the Welfare of Livestock: Laying Hens, issued on 22 July 2002 (https://www.gov.uk/government/publications/poultry-on-farm-welfare), which will be revoked when the new Code of Practice comes into force.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 None.

4. Legislative Context

4.1 Farm animal welfare standards in England are laid down in EU and domestic legislation. Guidance to farmers on how to comply with these statutory requirements is provided through species specific statutory codes.

4.2 A draft of the Code of Practice has been laid before Parliament, pursuant to section 15 of the Animal Welfare Act 2006, on 5 June 2018. Under section 15(4) of the Animal Welfare Act 2006, the Secretary of State must lay a draft of the code before Parliament for a period of 40 days. The Secretary of State must then wait until the end of the 40 day period before publishing the Code of Practice. Once published, under section 15(5) of the Animal Welfare Act, the Secretary of State may then specify a date on which the new Code of Practice shall come into force.

5. Extent and Territorial Application

5.1 The extent and territorial application of this Code of Practice is England only.

5.2 Scotland, Wales and Northern Ireland each have their own statutory welfare codes of practice.

5.3 The Welsh Government consulted on its own updated Code of Practice for the Welfare of Laying Hens between November 2017 and February 2018.

6. European Convention on Human Rights

6.1 As there are no changes to legislation no statement is required.

7. Policy background

What is being done and why

7.1 There are ten species specific farm animal welfare codes which provide guidance to keepers on how to comply with farm animal welfare legislation. These were originally issued under section 3 of the Agriculture (Miscellaneous Provisions) Act 1968 (c.34) but are treated as if made under section 14 of the Animal Welfare Act 2006 (c.45) in accordance with article 3 of The Animal Welfare Act (Commencement No. 2 and Saving and Transitional Provisions) (England) Order 2007 (S.I. 2007/2711). Many of the codes are significantly out of date: in addition to the fact that they do not reflect the latest scientific, veterinary and husbandry advice, some have not been updated following significant changes in legislation.

7.2 Under The Welfare of Farmed Animals (England) Regulations 2007, those responsible for farmed animals must not attend to animals without being acquainted with the relevant code or without having access to the code. In addition to being used by owners and keepers, the codes are used by Defra's enforcement body, the Animal and Plant Health Agency ("APHA"), to guide its inspections and to support prosecutions. The fact that the codes are out of date means they are confusing for owners and keepers and reliance on the codes to support a prosecution is difficult.

7.3 The code for laying hens and pullets will be the second of the ten farm animal welfare codes to be updated, following the new Code of Practice for the Welfare of Meat Chickens and Meat Breeding Chickens, which came into force in March 2018. Codes for other livestock species will be updated in due course.

7.4 The primary objective of the new Code of Practice is to provide owners and keepers of laying hens and pullets with up-to-date and improved guidance on the current legislation and on how to practise good standards of stockmanship to help enhance the welfare of their animals, in line with the most recent scientific, veterinary and husbandry advice.

7.5 The new Code of Practice addresses priority laying hen welfare issues, such as the need to reduce injurious pecking, so as to stop the need to beak trim as soon as reasonably possible. It recommends producers should draw up a bespoke action plan for their laying hen unit to reduce injurious pecking and provides details of management strategies and interventions to help achieve this. The new code is more comprehensive than the existing Code of Recommendations; it includes new sections, based on the latest scientific, veterinary and husbandry advice, on the welfare of pullets, skeletal health, welfare outcome assessments, biosecurity and contingency planning.

8. Consultation outcome

8.1 Defra held a six-week public consultation from 29 January to 9 March 2018, on an updated statutory Code of Practice for the Welfare of Laying Hens. Views were sought from all those involved in the keeping of laying hens and pullets.

8.2 A total of 21 responses were received to the consultation. The largest number of responses (6) came from animal welfare organisations. Other responses were received from the livestock sector (5), universities (2), charities (2), the veterinary profession (1), local authorities (1) and members of the public (4).

8.3 The majority of respondents who commented agreed the updated code provides improved and up-to-date guidance to owners and keepers on how to comply with the relevant farm animal welfare legislation, subject to some specific comments. Although they agreed the code provides improved and up-to-date guidance, two of the livestock sector groups felt the guidance exceeded the requirements of the legislation. The sections on welfare outcome assessments, injurious pecking, skeletal health and the rearing environment were welcomed by some of the animal welfare organisations and charities. The veterinary profession welcomed the code's recommendations to seek appropriate veterinary advice where relevant and to ensure that veterinary advice is available when needed.

8.4 Amendments were made to the code following the public consultation. The final draft has been scrutinised by the independent Farm Animal Welfare Committee ("FAWC") who have confirmed that it incorporates the latest scientific, veterinary and husbandry advice and provides clear guidance to owners and keepers to help ensure and enhance the welfare of their animals. FAWC will also review the Welsh Government's updated Code of Practice which will ensure a level of consistency.

8.5 The Government response to the consultation was published on 5 June 2018 and can be found here: https://www.gov.uk/government/consultations/animal-welfare-updating-the-code-of-practice-for-the-welfare-of-laying-hens

9. Guidance

9.1 Defra will work closely with key stakeholders, including the British Egg Industry Council, the British Free Range Egg Producers Association, the National Farmers Union and relevant charities, to ensure owners and keepers of laying hens and pullets, including those with backyard flocks, are fully aware of the new Code of Practice. Defra will work with APHA to ensure that, in future, its inspectors will make an assessment on whether the provisions of the legislation and the updated Code of Practice are being met. Defra will also work with local authorities in order to ensure that they are fully aware of the updated Code of Practice.

10. Impact

10.1 This measure imposes a small cost to business, due to the requirement for workers on laying hen and pullet farms in England to be familiar with the content of the new Code of Practice. When the updated Code of Practice is published and then comes into force, each worker will need to familiarise themselves with its content; we estimate this will take them each 3 hours. This estimate was supported by the response to the public consultation: of those respondents (13) who commented on this question, the majority (9) agreed that three hours was sufficient.

10.2 The impact on charities and voluntary bodies is not measured, but is likely to be negligible.

10.3 The impact on the public sector is also not measured, but is likely to be negligible.

10.4 An Impact Assessment has not been prepared for this Code of Practice because it will lead to impacts on business below the £5m threshold for Equivalent Annual Net Direct Cost to Business. An Impact Assessment is therefore not required.

11. Regulating small business

11.1 The Code of Practice applies to activities that are undertaken by small businesses.

11.2 No specific action is proposed to minimise regulatory burdens on small businesses created by the Code of Practice. We have taken this position because we believe the new regulatory burdens will be minimal.

11.3 As most laying hen and pullet producers are small or micro businesses it is not possible to give them an exemption from complying with animal welfare legislation without compromising the welfare of laying hens and pullets.

12. Monitoring & review

12.1 Defra will conduct a post-implementation review to assess whether the proposed benefits have been realised and if any unforeseen costs have resulted from the updated Code of Practice.