EXECUTIVE NOTE

THE PROHIBITED PROCEDURES ON PROTECTED ANIMALS (EXEMPTIONS) (SCOTLAND) AMENDMENT REGULATIONS 2009
SSI/2009/47

The above Regulations, which amend the Prohibited Procedures on Protected Animals (Exemptions) (Scotland) Regulations 2007 ("the principal Regulations"), are made in exercise of powers conferred by section 20(5)(b) and (c) 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. The instrument is subject to the affirmative resolution procedure and thus must be laid in draft before, and approved by, the Parliament.

Policy Objectives

To replace, as amended, the Schedules of the principal Regulations to include commonly used procedures for the control of animal reproduction and, for identification purposes, the wing and web tagging of birds; and to remove the power to spay certain animals for non-medical reasons.

Under the principal Regulations certain procedures were exempted in order to allow most existing farm animal husbandry practices to continue. These procedures are necessary to identify animals; for the welfare benefit of the individual animal, flock or herd; or to ensure handler safety.

However, since the principal Regulations came into force, it has been brought to the attention of the Scottish Government that not all the commonly used procedures were listed in the Schedules, in particular procedures for the control of animal reproduction and identification, namely:-

- Ovum transfer (for all animals where embryo transfer is already permitted);
- Laparoscopic insemination for the purpose of controlling reproduction or general animal management (sheep and goats only);
- Implantation of a subcutaneous contraceptive for non-farmed animals as part of a conservation programme (e.g. zoo animals);
- Castration, ovidectomy and vasectomy in non-farmed birds in relation to conservation breeding; and
- Wing and web tagging of birds for the purposes of identification in the following circumstances:-

    (a) only for farmed birds for breeding or testing for the presence of disease; and

    (b) only for non-farmed birds for conservation or research.

Also, on advice received from the Scottish Government's veterinary advisers, we sought stakeholders' views on a recommendation that the spaying of cattle, sheep, pigs, goats, deer and horses should not be allowed and therefore be removed from the Schedules of the principal Regulations This proposal elicited no challenge from stakeholders and that exemption has duly been removed.

It should be noted that these issues were not flagged up by stakeholders during the original consultation for the principal Regulations.

Amendment to Regulation 2 (Interpretation) of the principal Regulations

For the sake of clarity, some new definitions have been added to regulation 2 of the principal Regulations.

Scope of the Regulations

Section 20 of the Act makes it an offence to carry out a procedure which interferes with the bone structure or sensitive tissues of an animal, except for medical treatment, or where the procedure has been exempted under Regulations made by the Scottish Ministers.

These Regulations specify procedures to which section 20 will not apply, as long as those procedures are carried out for a specified purpose and the procedure is done in accordance with specified conditions and good practice (see regulation 3 of the principal Regulations).

The amended Schedules 1 to 12 of the principal Regulations list those procedures which are to be exempted in relation to particular types of animals. These schedules also specify the purposes for which the procedures may be carried out and any conditions which apply to such procedures.

The restrictions on the performance of acts of veterinary surgery, as laid out in the Veterinary Surgeons Act 1966 and related provisions, are unaffected by these Regulations.

The provisions on the performance of operations on animals without the use of anaesthetics in the Protection of Animals (Anaesthetics) Act 1954, the Protection of Animals (Anaesthetics) Act 1964 and related instruments are not affected by these Regulations.

Consultation

A consultation paper was issued in December 2007 to some 200 Interested Parties and comments were sought by end February 2008. In total, 25 responses were received, none of which raised any objections to the proposal to make these new Regulations.

Financial Effects

A 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.

Scottish Executive Rural Directorate
December 2008