EXECUTIVE NOTE

THE WELFARE OF FARMED ANIMALS (SCOTLAND) REGULATIONS 2010

S.S.I. 2010/388

The Welfare of Farmed Animals (Scotland) Regulations 2010 are made by the Scottish Ministers in exercise of powers conferred by section 26 of the Animal Health and Welfare (Scotland) Act 2006 (the Act), which allows Scottish Ministers to make provisions for the purposes of, and in connection with, securing the welfare of animals for which a person is responsible and the progeny of such animals, and of 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 -

- consolidate the Welfare of Farmed Animals (Scotland) Regulations 2000 as amended (the 2000 Regulations);
- to refine and modernise the drafting of the instrument; and
- to make amendments.

The instrument is therefore an amending consolidation.

This Executive Note firstly details the amendments which amount to new policy and secondly, comments on the amendments which are necessary in order to produce a satisfactory consolidation. The table of Destination and Derivation at **Annex A** details the changes to the instrument and highlights in grey the changes it is considered amount to new policy.

Amendments which amount to new policy

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

Schedule 2 – Additional conditions that apply to the keeping of conventionally reared meat chickens

A new Schedule detailing the additional conditions that apply to the keeping of conventionally reared meat chickens has been added to the Regulations. (N.B. The Schedules have been renumbered since the 2000 Regulations – see Annex A for details). This Schedule transposes into domestic legislation many of the requirements of Council Directive 2007/43/EC laying down minimum rules for the protection of chickens kept for meat production (the Meat Chickens Directive).

The 2000 Regulations as amended implement EU legislation and reflect the obligations contained in the European Convention for the Protection of Animals kept for Farming Purposes (10th March 1976) as read with the Protocol of Amendment to the European Convention for the Protection of Animals kept for Farming Purposes (6th February 1992). These Regulations specify general requirements which apply in

the case of most farmed animals and for specific additional requirements which apply in the case of laying hens, calves and pigs.

Meat chickens are the last major intensive livestock farming sector not to have specific welfare rules and the transposition of the Meat Chickens Directive will fill that gap and ensure level standards throughout the European Union.

Consequential amendments in relation to the transposition of the Meat Chickens Directive have been made to regulation 2(2) in relation to expressions used but not defined in the Regulations and to regulation 6(1) in relation to additional duties on a person responsible for animals and at slaughterhouses. (N.B. Many of the regulations have been renumbered).

Amendments necessary to produce a satisfactory consolidation

There are a number of amendments which have been made to the instrument so as to produce a satisfactory consolidation. These changes are included in the Table of Derivation and Destination which is attached at **Annex A.** The changes include minor drafting changes so as to clarify and improve the quality of the instrument, gender neutral drafting, the removal of out of date references and renumbering. It is considered that these types of amendments do not amount to policy changes to the instrument.

Consultation

A 12 week public consultation on the Meat Chickens Directive was undertaken last year and a total of 7 responses were received, including responses from the National Farmers' Union of Scotland, FAWC and three animal welfare organisations. No responses from chicken poultry producers were initially received so Vion UK Poultry and the British Poultry Council were contacted again and submitted comments when invited to do so. All comments received were given full consideration.

Financial Effects

A Regulatory Impact Assessment has been prepared for this instrument which details the costs associated with transposing the Meat Chickens Directive.

Rural and Environment Directorate
Animal Health and Welfare Division
September 2010

Annex A

Table of Destination and Derivation (The Welfare of Farmed Animals (Scotland) Regulations 2010)

Table of Destinations and Derivations which indicates the link between the previous legislative provisions and those in the 2010 regulations.

Derivation	***Destination***	***Note of Amendments and Remarks***
The Welfare of Farmed Animals (Scotland) Regulations 2000 (as amended by SSI 2002/334, 2003/488 and 2007/256)	***The Welfare of Farmed Animals (Scotland) Regulations 2010***	
Preamble	Preamble	The enabling powers to draft the SSI have been amended; reference to the Agriculture (Miscellaneous Provisions) Act 1968 has been removed. Reference to the enabling powers from the Animal Health and Welfare (Scotland) Act 2006 has been inserted.
Regulation 1(1)	Regulation 1	Equivalent but not identical.
Regulation 1(2)	-	Regulation referring to extent removed as unnecessary as enabling powers are in an Act of the Scottish Parliament.
Regulation 2(1)	Regulation 2(1)	The following definitions have been removed: “animal” “authorised person”; “battery cage”; “battery system”; “statutory welfare code”. The following definitions have been moved to the relevant Schedule: “keeper”; “litter”; “nest”; “usable area”; “zootechnical treatment”. The following definitions have been inserted: “animal welfare code”; “conventionally reared meat chicken”; “inspector”; “local authority”;

		"person responsible". The following definitions have been amended; "calf"; "laying hen".
Regulation 2(2)	Regulation 3(2)	The 2010 Regulations also do not apply to fish, reptiles and amphibians
Regulation 2(3)	-	Regulation removed as unnecessary in modern drafting.
Regulation 2(4)	-	Regulation removed as unnecessary in modern drafting.
Regulation 2(5)	Regulation 2(2)	Reference inserted to Council Directive 2007/43/EC (meat chickens).
Regulation 3	Regulation 6	
Regulation 4	Regulation 6	
Regulation 5	Regulation 6	
Regulation 6	Regulation 6	
Regulation 7	Regulation 6	
Regulation 8	Regulation 6	
Regulation 8A	Schedule 6, paragraph 9	
Regulation 9	Regulation 6	
Regulation 10	Regulation 7	
Regulation 11	Regulation 8	
Regulation 12	Regulation 10	
Regulation 13(1)	Regulation 11	Regulation amended. Minor drafting changes made and reference to "an offence made under the Agriculture (Miscellaneous Provisions) Act 1968 made.
Regulation 13(2)	-	Regulation removed to avoid duplication of provisions in the Animal Health and Welfare (Scotland) Act 2006.
Regulation 14	Regulation 14	Revocations amended and moved to schedule 8 of the regulation.
-	Regulation 4	Regulation inserted: appointment of competent authority for the purposes of compliance with EU Council Directives.
-	Regulation 5	Regulation inserted: duties on a person responsible for a farmed animal.
-	Regulation 9	Regulation inserted: offence for obstruction of an inspector.
-	Regulation 12	Regulation inserted: offences by bodies corporate.
-	Regulation 13	Regulation inserted: enforcement.
-	Regulation 15	Regulation inserted: savings relating to

		regulations 11 and 13 of the Welfare of Farmed Animals (Scotland) Regulations 2000.

Derivation	**Destination**	**Note of Amendments and Remarks**
The Welfare of Farmed Animals (Scotland) Regulations 2000 (as amended by SSI 2002/334, 2003/488 and 2007/256)	***The Welfare of Farmed Animals (Scotland) Regulations 2010***	
Schedule 1	**Schedule 1**	
General Conditions Under Which Farmed Animals Must Be Kept	**General Conditions Under Which Farmed Animals Must Be Kept**	
1	1	
2(1)	2(1)	Minor drafting changes made.
2(2)	2(2)	Minor drafting changes made.
2(3)	2(3)	Minor drafting changes made. Sub-paragraph 3(a) inserted.
3	3	
4	4	Reference to "poultry" amended to "laying hens kept in the systems referred to in Parts 3, 4, and 5 of schedule 3". Minor drafting change made.
5(b)	5(b)	Need for veterinary care amended from as soon as "possible" to "reasonably practicable".
6	6	Sub-paragraph 2 removed.
7	7	
8	8	Minor drafting changes made. Reference for record to be made available to an "authorised person" removed, amended by reference to an "inspector".
9	9	
10	10	
11	11	
12	12	

13	13	
14	14	
15	15	
16	16	
17	17	
18	18	
19	19	
20(b)	20(b)	Minor drafting change made.
21	21	Minor drafting change made.
22	22	
23	23	
24	24	
25	25	
26	26	
27	27	Definition of "zootechnical treatment" in accordance with Article 1(2)(c) of Council Directive 96/22/EC inserted.
28(1)	28(1)	"Subject to paragraph (2)" removed from sub-paragraph.
29	29	Minor drafting change made.
30	30	
Schedule 2	-	Schedule removed.
Schedule 3	Schedule 3, paragraph 12	Schedule removed.
Schedule 3A	Schedule 3, Part 5	Schedule removed.
Schedule 3B	Schedule 3, Part 3	Schedule removed.
Schedule 3C	Schedule 3, Part 4	Schedule removed.
Schedule 3D	Schedule 3, Part 2	Schedule removed.
-	**Schedule 2 - New**	Schedule provides for additional conditions that apply to the keeping of conventionally reared meat chickens.
Schedule 4	**Schedule 4**	
Additional Conditions That Apply To The Keeping Of Calves Confined For Rearing and Fattening	**Additional Conditions That Apply To The Keeping Of Calves Confined For Rearing and Fattening**	
1(1)	1(1)	
1(2)	1(2)	
1(3)	1(3)	

1(4)	1(4)	
1(5)	1(6)	
1(6)	1(7)	Minor drafting change made.
1(7)	1(8)	Minor drafting change made.
1(8)	1(9)	Minor drafting change made.
-	1(5)	Conditions for sub-paragraphs 1 to 4 inserted.
-	1(10)	Installation requirements for electric circuits and equipment inserted.
2	-	Paragraph removed as transitional arrangements have expired.
3	2	
4	3	
5	Schedule 1, paragraph 6	
6(2)	4(2)	Minor drafting change made.
6(3)	4(3)	Minor drafting change made and condition that tether must allow calves to be able to "turn around" inserted.
7	5	
8	6	
9	7	
10	8	
11	9	Minor drafting change made.
12	10	
13	11	
14	12	
15(1)	13(1)	Amended requirement of minimum 2 weeks of age for calves to be given drinking water. "Other liquids" outwith water inserted.
15(2)	13(2)	
Schedule 5	**Schedule 5**	
Additional Conditions That Apply To The Keeping Of Cattle	**Additional Conditions That Apply To The Keeping Of Cattle**	
1	Schedule 1, paragraph 4	
2	1	
Schedule 6	**Schedule 6**	

Additional Conditions That Apply to the Keeping of Pigs	**Additional Conditions That Apply to the Keeping of Pigs**	
1	1	Minor drafting change made.
2	2	
3	Schedule 1, paragraph 6	
4	3	Minor drafting change made.
5(1)	4(1)	Minor drafting change made.
5(2)	4(2)	Minor drafting change made, reference to paragraph 6(2) amended to paragraph 5(2) due to numbering changes.
6	5	
7(1)	6(1)	
7(2)	6(2)	Minor drafting change made.
7(3)	6(3)	Reference to defence under regulation 13(1) removed. Replaced with the non-application of sub-paragraph 1.
7(4)	6(4)	Reference to defence under regulation 13(1) removed. Replaced with the non-application of sub-paragraph 1.
8	7	
9	8	
10	10	
11	11	
12(a)	12(a)	Need for smooth but not slippery floors to "prevent injury to pigs" removed.
12(b)	12(b)	
12(c)	12(c)	
12(d)	12(d)	
13	13	Concrete slatted floor requirements amended to come into force "on and after 1st January 2013".
14	14	
15	15	Minor drafting change made.
16	16	
17	17	
18	18	

19	-	Paragraph removed by SSI 2007/256.
20	-	Paragraph removed by SSI 2007/256.
21	-	Paragraph removed by SSI 2007/256.
22	-	Paragraph removed by SSI 2007/256.
23	-	Paragraph removed by SSI 2007/256.
24	-	Paragraph removed by SSI 2007/256.
25	-	Paragraph removed by SSI 2007/256.
26	-	Paragraph removed by SSI 2007/256.
27	19	
28	20	
29	21	
30	22	
31	23	
32	24	
33	25	
34	26	
35	27	
36	28	Minor drafting change made.
37	29	Amended to come into force on and after 1st January 2013.
38	30	Amended to come into force on and after 1st January 2013. Paragraph ordering changed from numerical to alphabetical.
39	31	Amended to come into force on and after 1st January 2013. Paragraph numbering amended.
40	32	Paragraph numbering amended.
41	33	Paragraph numbering amended.
42	34	Paragraph numbering amended.
43	35	
44	36	Minor drafting changes made.
45	37	
46	38	

47	39	Minor drafting changes made. Reference to "pigs" amended to "sows".
48	40	Minor drafting changes made.
49(1)	41(1)	Condition on the mixing of weaners and rearing pigs unfamiliar with one another amended from, "preferably before or up to one week after weaning" to "where reasonably practicable, no later than one week after weaning".
49(2)	41(2)	Minor drafting changes made.
50	42	
51	43	Minor drafting changes made.
52	44	
Schedule 7	**Schedule 7**	
Additional Conditions That Apply To The Keeping Of Rabbits	**Additional Conditions That Apply To The Keeping Of Rabbits**	
-	-	New "accommodation" title inserted.
1	1	
2	2	
	Schedule 8 - New	Revocation schedule inserted. Revokes the Welfare of Farmed Animals (Scotland) Regulations 2000, the Welfare of Farmed Animals (Scotland) Amendment Regulations 2002 and the Welfare of Farmed Animals (Scotland) Amendment Regulations 2003.

TRANSPOSITION NOTE

THE WELFARE OF FARMED ANIMALS (SCOTLAND) REGULATIONS 2010 ("the Regulations")

The Regulations revoke and replace the Welfare of Farmed Animals (Scotland) Regulations 2000. Regulations 3, 4 and 6 and Schedule 1 of the Regulations implement Council Directive 98/58/EC concerning the protection of animals kept for farming purposes (O. J. L 221, 8.8.1998, p. 23).

The following table demonstrates how the relevant provisions of the Directive have been given effect in the Regulations.

Provisions of Council Directive 98/58/EC concerning the protection of animals kept for farming purposes

Article	Objective	Implementing Provisions
Article 1	Scope, application and exclusions of the Directive	Regulation 3
Article 2	Definitions	Regulation 3
Article 3	Requires Member States to ensure that those responsible for animals take steps to ensure their welfare and not cause them unnecessary suffering	Sections 19 and 24 of the Animal Health and Welfare (Scotland) Act 2006 (asp 11)
Article 4	Requires the conditions specified in the Annex to be met.	Regulation 5
Article 5	Requires the Commission to submit reports and proposals to the Council	No transposition required
Article 6	Requires Member States to ensure that inspections are conducted and report to the Commission	No transposition required
Article 7	Details arrangements for inspection by Commission veterinary experts	No transposition required

Article	Objective	Implementing Provisions
Articles 8 - 12	Requirement for the Commission to report to the Council, Member States to implement the provisions of the Directive and entry into force	No transposition required
Annex paragraph 1	Staffing and their competence	Schedule 1, paragraph 1
Annex paragraphs 2 – 4	Specifies when animals must be inspected, lighting to be provided and the care of ill or injured animals	Schedule 1, paragraphs 2, 3, 5 and 6
Annex paragraphs 5 and 6	Specifies that records of medical treatment and mortalities need to be kept, retained and made available.	Schedule 1, paragraphs 7 and 8
Annex paragraph 7	Requires that animals must have freedom of movement.	Schedule 1, paragraphs 9 and 10
Annex paragraphs 8 - 11	Sets out requirements for the construction of buildings, accommodation, fittings, air quality, temperature, and lighting.	Schedule 1, paragraphs 11 - 16
Annex paragraph 12	Protection for animals not kept in buildings	Schedule 1, paragraph 17
Annex paragraph 13	Requires automatic or mechanical equipment essential for the health and welfare of animals to be inspected and maintained. Artificial ventilation systems need a back-up and an alarm	Schedule 1, paragraphs 18 - 21
Annex paragraphs 14 – 18	Specifies that animals must be fed a wholesome and sufficient diet, at appropriate times, have access to fluid. Equipment designed to minimise contamination of and competition for food.	Schedule 1, paragraphs 22 – 27

Article	Objective	Implementing Provisions
Annex paragraph 19	Mutilations to be restricted	Section 20 of the Animal Health and Welfare (Scotland) Act 2006
Annex paragraphs 20 and 21	Prohibits breeding procedures which cause suffering or injury other than minimal or momentary suffering or injury. A prohibition on keeping farm animals where there would be a detrimental effect on their health and welfare	Schedule 1, paragraphs 28 and 29

TRANSPOSITION NOTE

THE WELFARE OF FARMED ANIMALS (SCOTLAND) REGULATIONS 2010 ("the Regulations")

The Regulations revoke and replace the Welfare of Farmed Animals (Scotland) Regulations 2000. Regulations 2, 4 and 6 and Schedule 3 of the Regulations implement Council Directive 1999/74/EC laying down minimum standards for the protection of laying hens (O. J. L 203, 3.8.1999, p. 53).

The following table demonstrates how the relevant provisions of the Directive have been given effect in the Regulations.

Provisions of Council Directive 1999/74/EC laying down minimum standards for the protection of laying hens

Article	Objective	Implementing Provisions
Article 1	Scope of the Directive and exclusions	Regulation 6(1)(b)
Article 2	Definitions	Regulation 2 and Schedule 3 paragraph 1
Article 3	Application of the Directive to the system of production used	Regulation 6(1)(b) and Schedule 3
Article 4	Sets out the provisions which need to be applied to non cage systems	Schedule 3, Part 5, paragraphs 17 - 21
Article 5	Sets out the provisions which need to be applied where laying hens are kept in unenriched cages	Schedule 3, Part 3, paragraphs 9 and 10
Article 6	Sets out the provisions which need to be applied where laying hens are kept in enriched cages	Schedule 3, Part 4, paragraphs 11 - 16
Article 7	Requires Member States to ensure that egg production establishments are registered and given a distinguishing number	Regulation 3 of the Registration of Establishments Keeping Laying Hens (Scotland) Regulations 2003

Article	Objective	Implementing Provisions
Article 8	Requires Member States to ensure that inspections are conducted and report to the Commission	No transposition required
Article 9	Details arrangements for inspection by Commission veterinary experts	No transposition required
Articles 10 - 15	Requirement for the Commission to report to the Council, consideration by the Standing Veterinary Committee, Member States to implement the provisions of the Directive and entry into force	No transposition required
Annex paragraphs 1 - 7	Sets out specific provisions which need to be applied in all systems covering: frequency of inspection; noise level; lighting; cleaning and disinfection; escape proof cages; devices to aid inspection in multi-tier systems; and the design and dimensions of the cage door.	Schedule 3, Part 2, paragraphs 2 - 8
Annex paragraph 8	Mutilations to be restricted to beak trimming	Section 20 of the Animal Health and Welfare (Scotland) Act 2006 and the Prohibited Procedures on Protected Animals (Exemptions) (Scotland) Regulations 2010 (regulation 3 and Schedule 3)

TRANSPOSITION NOTE

THE WELFARE OF FARMED ANIMALS (SCOTLAND) REGULATIONS 2010 ("the Regulations")

The Regulations revoke and replace the Welfare of Farmed Animals (Scotland) Regulations 2000. Regulations 2, 4 and 6 and Schedule 2 of the Regulations implement Council Directive 2007/43/EC laying down minimum rules for the protection of chickens kept for meat production (O. J. L 182, 12.7.2007, p. 19).

The following table demonstrates how the relevant provisions of the Directive have been given effect in the Regulations.

Provisions of Council Directive 2007/43/EC laying down minimum rules for the protection of chickens kept for meat production

Article	Objective	Implementing Provisions
Article 1	Defines the scope of the Directive and the exclusions	Regulation 2(1)
Article 2	Defines words and terms used in the Directive	Regulation 2(2)(b) and Schedule 2, paragraph 1
Article 3	Sets out the requirements under which meat chickens must be kept	Regulation 6(1)(a) and Schedule 2, paragraphs 4, 6-13 and section 20 of the Animal Health and Welfare (Scotland) Act 2006 and the Prohibited Procedures on Protected Animals (Exemptions) (Scotland) Regulations 2010 (regulation 3 and Schedule 3)
Article 4	Specifies training and guidance to be provided to persons dealing with chickens	Schedule 2, paragraph 2
Article 5	Requires the Commission to submit a report on poultrymeat labelling	No transposition required
Article 6	Requires the Commission to submit a report on chicken welfare and Member States to submit data to the Commission	Notransposition required

Article	Objective	Implementing Provisions
Article 7	Requires the competent authority to carry out inspections and submit an annual report	No transposition required
Article 8	Requires Member States to encourage the development of good management practice guides	No transposition required
Article 9	Requires Member States to set down rules on penalties for infringements	Regulation 11
Articles 10 and 11	Deal with the uniform implementation of the Directive	No transposition required
Article 12	Requires Member States to implement the Directive	The Welfare of Farmed Animals (Scotland) Regulations 2010 and section 20 of the Animal Health and Welfare (Scotland) Act 2006 and the Prohibited Procedures on Protected Animals (Exemptions) (Scotland) Regulations 2010 (regulation 3 and Schedule 3)
Articles 13 and 14	Date of entry into force and that the Directive is addressed to Member States	No transposition required
Annex I, paragraphs 1 - 11	This sets out the detailed requirements which need to be met for all holdings	Schedule 2, paragraphs 6 – 13
Annex I paragraph 12	Prohibits surgical interventions but allows Member States to permit beak trimming and castration under certain conditions	Section 20 of the Animal Health and Welfare (Scotland) Act 2006 and The Prohibited Procedures on Protected Animals (Exemptions) (Scotland) Regulations 2010 (regulation 3 and Schedule 3)
Annex II	Sets out conditions which must be met where chickens are kept at a stocking density of between 33 kg/m² and 39 kg/m²	Schedule 2, paragraphs 3 and 5

Article	Objective	Implementing Provisions
Annex III	Sets out the requirements relating to monitoring and follow-up at the slaughterhouse	Schedule 2, paragraphs 14 and 15
Annex IV	Sets out the detailed requirements relating to the training courses for the keepers of chickens	No transposition required
Annex V	Sets out conditions which must be met where chickens are kept at a stocking density of more than 39 kg/m²	No transposition required as we have set a maximum stocking density of 39 kg/m²

TRANSPOSITION NOTE

THE WELFARE OF FARMED ANIMALS (SCOTLAND) REGULATIONS 2010 ("the Regulations")

The Regulations revoke and replace the Welfare of Farmed Animals (Scotland) Regulations 2000. Regulations 2, 4 and 6 implement Council Directive 2008/119/EC laying down minimum standards for the protection of calves (O. J. L 10, 15.1.2009, p. 7).

The following table demonstrates how the relevant provisions of the Directive have been given effect in the Regulations.

Council Directive 2008/119/EC laying down minimum standards for the protection of calves

Articles	Objective	Implementing Provisions
Article 1	Outlines the purpose of the Directive	No implementation required
Article 2	Definitions	Regulation 2(1)
Article 3	Sets out specific provisions for the housing and keeping of calves	Schedule 4 paragraphs 1(1) to (5)
Article 4	Requires Member States to ensure that the conditions for rearing calves comply with the provisions set out in Annex 1	Regulation 6(1)(c)
Article 5	Allows the provisions in Annex 1 to be amended	No transposition required
Article 6	Requires the Commission to submit a report by 1 January 2006	No transposition required
Article 7	Requires Member States to ensure that inspections are carried out to ensure that the provisions of the Directive are complied with and report to the	No transposition required

Articles	Objective	Implementing Provisions
	Commission	
Article 8	Requires animals being imported into the EU to be accompanied by a certificate	Does not require to be implemented. Places duty on competent authority – directly applicable.
Article 9	Details arrangements for inspection by Commission veterinary experts	No transposition required
Article 10	Details Committee and Commission arrangements	No transposition required
Article 11	Allows Member States to maintain or apply stricter provisions	No transposition required
Articles 12 - 14	Repeals, amendments, date of entry into force and that the Directive is addressed to Member States	No transposition required
Annex 1 paragraph 1	Specifies that materials used in the construction of accommodation must not be harmful and can be cleaned	Schedule 1, paragraph 11
Annex 1 paragraph 2	Electrical circuits and equipment to be installed in a way to avoid electric shocks	Schedule 4, paragraph 1(10)
Annex 1 paragraph 3	Air quality and temperature need to be kept within safe limits	Schedule 1, paragraph 13
Annex 1 paragraph 4	Requires automatic or mechanical equipment essential for the health and welfare of animals to be inspected and maintained. Artificial ventilation systems need	Schedule 1, paragraphs 18 - 21

Articles	Objective	Implementing Provisions
	a back-up and an alarm	
Annex 1 paragraph 5	Sets minimum lighting periods and levels	Schedule 1, paragraphs 3 and 14 - 16 Schedule 4, paragraph 5
Annex 1 paragraph 6	Details the frequency of inspections and action to be taken should an animal be ill or injured	Schedule 1, paragraph 6 Schedule 4, paragraphs 2 and 3
Annex 1 paragraph 7	Specifies that calves should have room to lie down, stand up and groom	Schedule 4, paragraph 1(6)
Annex 1 paragraph 8	Restricts the tethering of calves	Schedule 4, paragraph 4
Annex 1 paragraph 9	Requires cleaning and disinfection, and the removal of faeces, urine and uneaten food	Schedule 4, paragraph 6
Annex 1 paragraph 10	Sets conditions for flooring	Schedule 4, paragraphs 7 and 8
Annex 1 paragraph 11	Requires an appropriate diet to be provided and prohibits muzzling	Schedule 1 paragraph 22 Schedule 4 paragraphs 10 and 11
Annex 1 paragraph 12	Sets conditions for the frequency of feeding and access to the feed	Schedule 4 paragraph 12
Annex 1 paragraph 13	Calves to have access to fluid	Schedule 4 paragraph 13
Annex 1 paragraph 14	Requires equipment to be such that contamination of feed and water is minimised	Schedule 1 paragraph 26

Articles	Objective	Implementing Provisions
Annex 1 paragraph 15	Requires calves to receive bovine colostrum within 6 hours	Schedule 4 paragraph 9

TRANSPOSITION NOTE

THE WELFARE OF FARMED ANIMALS (SCOTLAND) REGULATIONS 2010 ("the Regulations")

The Regulations revoke and replace the Welfare of Farmed Animals (Scotland) Regulations 2000. Regulations 2, 4 and 6 and Schedule 6 of the Regulations implement Council Directive 2008/120/EC laying down minimum standards for the protection of pigs (O. J. L 47, 18.2.2009, p. 5).

The following table demonstrates how the relevant provisions of the Directive have been given effect in the Regulations.

Provisions of Council Directive 2008/120/EC laying down minimum standards for the protection of pigs

Article	Objective	Implementing Provisions
Article 1	Scope of the Directive	Regulation 6(1)(e)
Article 2	Defines words and terms used in the Directive	Regulation 2 and Schedule 6 paragraph 1
Article 3	Specifies that holdings must comply with: a minimum floor area; a maximum width of opening of concrete slats and minimum width of each slat; prohibits the use of tethers for sows and gilts	Schedule 6, paragraphs 3 - 5, 8, 13, 16, 28 - 34 and 44
Article 4	Requires Member States to ensure that the conditions for pigs comply with the provisions in Annex 1	Regulation 6(1)(e)
Article 5	Details how Annex 1 can be amended	No transposition required
Article 6	Requires whose who employ or engage persons attending to pigs to ensure that they receive instruction and guidance. Member States to ensure that appropriate training courses are available	Schedule 6, paragraph 9

Article	Objective	Implementing Provisions
Article 7	Requires the Commission to submit reports to the Council	No transposition required
Article 8	Requires Member States to ensure that inspections are carried out and report to the Commission	No transposition required
Article 9	Requires animals imported into the Community to have a certificate certifying that they have received equivalent treatment to animals of Community origin	Does not require to be implemented. Places duty on competent authority – directly applicable.
Article 10	Details the arrangements for inspection by Commission veterinary experts	No transposition required
Article 11	Details Committee and Commission arrangements	No transposition required
Article 12	Allows Member States to maintain or apply stricter provisions	No transposition required
Articles 13-15	Repeals, amendments, date of entry into force and that the Directive is addressed to Member States	No transposition is required
Annex 1 paragraph 1	Sets maximum noise levels in buildings	Schedule 6, paragraph 18
Annex 1 paragraph 2	Sets a minimum light level for a minimum period	Schedule 6, paragraph 7
Annex 1 paragraph 3	Sets minimum standards for accommodation	Schedule 6, paragraph 5

Article	Objective	Implementing Provisions
Annex 1 paragraph 4	Requires the provision of manipulative material	Schedule 6, paragraph 16
Annex 1 paragraph 5	Sets conditions for flooring	Schedule 6, paragraph 12
Annex 1 paragraph 6	Sets conditions for the frequency of feeding and access to the feed.	Schedule 6, paragraph 14
Annex 1 paragraph 7	All pigs to have access to water	Schedule 6, paragraph 15
Annex 1 paragraph 8	Mutilations to be restricted to teeth clipping or grinding, tail docking, castration and nose ringing, and sets conditions when these can be performed.	Section 20 of the Animal Health and Welfare (Scotland) Act 2006 and the Prohibited Procedures on Protected Animals (Exemptions) (Scotland) Regulations 2010 (regulation 3 and Schedule 2)
Annex 1 A Boars	Sets conditions and a minimum size for boar pens	Schedule 6, paragraphs 19 and 21
Annex 1 B Sows and gilts	Sets conditions to minimise aggression in groups, treatment against parasites, cleansing, provide nesting material, farrowing and protection for piglets	Schedule 6, paragraphs 8, 22 – 26.
Annex 1 C Piglets	Sets conditions for flooring, space when being suckled, and a minimum age for weaning	Schedule 6, paragraphs 35 – 39
Annex 1D Weaners and rearing pigs	Sets conditions to prevent excessive fighting and requires signs of severe fighting to be investigated, limits mixing of groups, and limits the use of tranquillising medication	Schedule 6, paragraphs 8, 40 – 43

REGULATORY IMPACT ASSESSMENT (RIA)

1. Title of Proposal

The Welfare of Farmed Animals (Scotland) Regulations 2010

These Regulations transpose Council Directive 2007/43/EC relating to the welfare of meat chickens and consolidate-

the Welfare of Farmed Animals (Scotland) Regulations 2000;
the Welfare of Farmed Animals (Scotland) Amendment Regulations 2002; and
the Welfare of Farmed Animals (Scotland) Amendment Regulations 2003.

The consolidated Regulations will be subject to affirmative procedure.

2. Purpose and intended effect

- **Objectives**

Council Directive 2007/43/EC (the Directive) aims to improve welfare conditions for chickens kept for the production of meat (broilers) by laying down specific standards across the EU while balancing economic, social and environmental impacts. The Directive takes into account the latest scientific evidence, veterinary advice, consumer concerns and industry practice, setting conditions for the keeping of broilers from the time chicks are brought to production sites until they leave for slaughter. It is unique in that it measures welfare outcomes and provides for a feedback mechanism between delivery agents and the producer, thus identifying those who are operating at unsatisfactory levels of stockmanship. These producers will have targeted inspections and verbal or written recommendations of improvements. Ultimately, prosecution will be an option for dealing with those who do not comply.

Broadly, the Directive provides for three sets of standards using stocking density as a criterion for the level of intensity of production:

i) producers who stock up to a maximum of 33 kg live weight per m^2 will have to comply with standards relating to drinkers, litter, ventilation / heating, noise, lighting, inspection, cleaning, record keeping, training and surgical interventions as laid down in Annex I and IV of the Directive.

ii) producers who stock beyond a limit of 33 kg live weight per m^2 up to a maximum of 39 kg will have to comply with all the standards laid down in Annex I and IV of the Directive plus an additional set of standards laid down in Annex II.

iii) any producers who stock beyond a limit of 39 kg live weight per m^2 up to a maximum of 42 kg will have to comply with all the standards laid down in Annex I, II and IV of the Directive plus a further set of requirements laid down in Annex V.

The Directive also sets out training and guidance requirements for Member States for those persons responsible for chickens. In addition, all producers will need to comply with certain monitoring conditions at the slaughterhouse.

- **Background**

General livestock welfare legislation (Council Directive 98/58/EC transposed through the Welfare of Farmed Animals (Scotland) Regulations 2000) applies to all farm animals. Additionally the EU has agreed specific rules for laying hens (implemented in Scotland by the Welfare of Farmed Animals (Scotland) Amendment Regulations 2002) and pigs (implemented in Scotland by the Welfare of Farmed Animals (Scotland) Amendment Regulations 2003). Meat chickens are a major sector not to have their own rules and the Directive will fill that gap.

UK meat chicken production is expected to continue at around 850 million birds per annum for the next 2 years with a value of about £880 million per annum. It is, therefore, a significant economic activity and also important as one of the best value and most popular sources of meat protein for consumers. Chicken represents over 30% of meat sold by weight and the consumption of chicken meat exceeds that of any other meat.

- **Rationale for Government Intervention**

There is a high level of public concern about the welfare of broilers and a need to provide a more detailed level of protection for them. There is also a need for a more level "playing field" for competing EU producers. While it is believed that the majority of the UK industry is complying with the current general welfare legislation, a minority of producers are not meeting requirements. Council Directive 2007/43/EC sets down rules protecting the welfare of meat chickens across the EU for the first time and will provide better tools to target these under-performing producers. Additionally the Directive sets out training and guidance requirements for Member States for those persons dealing with chickens. Training and guidance will ensure that keepers have sufficient knowledge of stockmanship, especially with reference to welfare aspects.

3. Consultation

In both the negotiation and ongoing implementation of the Directive, information and views have been obtained from a wide range of stakeholders. This has been in the form of a formal 12-week consultation and informal meetings and discussions. A "Core Stakeholder Group" composed of individuals from industry bodies and welfare groups, but acting in a personal capacity, gives ongoing advice on issues raised during the implementation process.

4. Options

Options on the implementation of the Directive are presented below. Options 1 and 2 must also be considered with regard to ensuring that stock keepers comply with training requirements. In line with Article 4 of the Directive, the Scottish Government has a derogation to recognise prior experience of existing stock keepers and award certificates on the basis of their competence (i.e. grant "Grandfather Rights").

Option 1: Implement the Directive fully and apply all available derogations including allowing producers to stock up to a maximum stocking density of 39 kg/m^2 where the additional Annex II conditions are met and up to 42 kg/m^2 provided that the additional Annex V conditions are met. In addition, that Government grant "Grandfather Rights" in relation to training requirements.

Option 2: Implement the Directive fully but apply only the derogation which allows producers to stock up to a maximum stocking density of 39 kg/m^2 provided the additional Annex II conditions are met**.** In addition, that Government grant "Grandfather Rights" in relation to training requirements.

5. Costs and benefits

- **Sectors and groups affected**

The Directive will affect producers of meat chickens (broilers) but shall not apply to (a) holdings with fewer than 500 chickens; (b) holdings with only breeding stock; (c) hatcheries; (d) extensive indoor and free range chickens; and (e) organically reared chickens. Out of a total of 2,798 holdings identified as having broilers and other table fowl in the 2008 Scotland June Agricultural and Horticultural Census only 91 holdings had more than 500 birds. However, it is not possible to separate broilers and other table fowl or extensive indoor, free range and organically reared chickens. For most affected meat chicken producers it is envisaged that the Directive's requirements will simply build on systems, processes and best practice already in place.

- **Costs**

a. Costs arising from Annex I requirements

The Directive makes lighting requirements applicable to all producers which implies that even producers who stock broilers up to a maximum stocking density of 33 kg/m^2 will potentially face upgrading costs. It is estimated from a study carried out for Defra by ADAS and University of Exeter that the industry in Scotland will need to invest some £160k in equipment to comply with the lighting requirement (Sheppard and Edge, 2004).[1] For a typical unit of 100,000 birds, the expected cost is estimated to be around £2,000 (see Table 1).

[1] Sheppard, A. and S. Edge (2004) Economic and Operational Impacts of the Proposed EU Directive laying down Minimum Standards for the Protection of Chickens kept for Meat Production, Centre for Rural Research, University of Exeter.

Table 1. Investment costs for complying with Annex I lighting requirements

	Percentage of producers who would have to upgrade to comply	Lowest individual cost given (per sq m)	Highest individual cost given (per sq m)	Mean Cost (per sq m)	Max Mean Cost typical 100,000 bird unit	Cost to "typical" unit - taking into account likelihood of change	Mean Cost to industry (allowing for % in need of upgrade)
Lighting requirement	46%	£0.21	£5.66	£0.76	£4,149	£1,909	£159,788

Source: Sheppard and Edge (2004)[2]

Holdings that upgrade their lighting will incur additional production costs associated with the operation of lighting equipment. The additional production costs to the Scottish chicken industry are estimated at some £43k per annum. The expected additional costs for a typical unit of 100,000 birds are estimated to be around £520 per annum (see Table 2).

Table 2. Ongoing costs associated with complying with lighting requirements

	Percentage of producers who would have to upgrade to comply	Cost (£) per sq m	Cost to typical unit	Cost to "typical" unit - taking into account likelihood of change	Cost to industry (allowing for % in need of upgrade or change)
Lighting requirement	46%	£0.21	£1,129	£519	£43,468

b. Costs arising from Annex II requirements

Costs arising from complying with the requirements in Annex II of the Directive will only affect producers who choose to stock at density levels above 33 kg/m^2 (live weight). These costs will arise as a result of additional investments needed to comply with requirements regarding the concentration of ammonia, temperature, humidity and documentation. By extrapolating from the ADAS and University of Exeter report an investment of around £830k is estimated to be needed to comply with the Annex II requirements (see Table 3). The expected investment for a typical unit of 100,000 birds is estimated to be around £10,000.

Table 3. Investment costs for complying with Annex II

	Percentage of producers who would have to upgrade to comply	Lowest individual cost given (per sq m)	Highest individual cost given (per sq m)	Mean Cost (per sq m)	Max Mean Cost typical 100,000 bird unit	Cost to "typical" unit - taking into account likelihood of change	Mean Cost to industry (allowing for % in need of upgrade)
Ammonia & humidity	20%	£0.34	£5.66	£2.07	£11,338	£2,268	£189,827
Temperature lift	30%	£0.35	£14.82	£4.63	£25,364	£7,609	£636,998
Documentation	10%	£0.02	£0.57	£0.18	£298	£179	£2,495
Total					£37,000	£10,056	£829,320

Holdings upgrading to comply with Annex II requirements will also incur additional ongoing production costs in complying with the requirements regarding ammonia, temperature and recording. The total ongoing production costs to the industry associated with meeting Annex II requirements are estimated to be around £13k per annum. Thus the expected additional cost per business is estimated to be around £158 per annum.

Table 4. Ongoing costs for complying with Annex II requirements

	Percentage of producers who would have to upgrade to comply	Cost (£) per sq m	Cost to typical unit	Cost to "typical" unit - taking into account likelihood of change	Cost to industry (allowing for % in need of upgrade or change)
Lighting requirement	46%	£0.00	£0	£0	£0
Ammonia	20%	£0.08	£415	£83	£6,948
Temperature lift	30%	£0.05	£249	£75	£6,253
Total			£664	£158	£13,201

c. Costs of reducing stocking densities under Options 1 and 2

Whichever option is chosen most producers will incur increased production costs with regard to lighting, heating / ventilation and noise levels. For those who choose to rear fewer birds at a time to comply with stocking density requirements, there would be a reduced turn over which reduces total margin. If housing is expanded to replace capacity that is lost as a result of the Directive, then holdings would incur investment costs.

(i) Costs of reducing stocking density under Option 1

There are no holdings in Scotland known to be currently stocking above 39 kg/m^2. However, for illustration, a figure of 16% is assumed. Around 5% of holdings will continue to stock above 39 kg/m^2 and will consequently have to comply with Annex V requirements; the remaining 11% will not wish to comply with Annex V requirements and will have to reduce their stocking densities below 39 kg/m^2 (generally, holdings will reduce stock to 38 kg/m^2 in order to ensure they do not accidently exceed the maximum stocking density). Again it is

estimated that about one third (around 30%) of the 11% who will wish to reduce their stocking densities below 39 kg/m^2 will achieve this by increasing housing to accommodate the same number of birds; the remaining two thirds (around 70%) will reduce their stocking densities by reducing the number of their birds. Under option 1, this would mean that 84% of the industry in Scotland will not incur any additional costs in complying with the stocking density requirements. Table 5 below presents estimated costs of complying with the stocking density requirements under Option 1.

Table 5. Costs of reducing stocking density under Option 1

Percentage Not Adopting Annex 5 Derogation	69%		
Impact on Capital Costs (one-off)			
	Typical 100k	**Cost per Bird needing re-housing**	**Total Industry**
Currently stock at 38	£0	£0.00	£0
Over 38 (30% build new capacity)	£57,964	£6.08	£293,417
Impact of Production costs (pa)			
	Typical 100k	**Cost per Bird**	**Total Industry**
Currently stock at 38	£0	£0.00	£0
Over 38	£14,538	£0.02	£244,767
Impact on net margin (pa)			
	Typical 100k	**Cost per Bird**	**Total Industry**
Currently stock at 38	£0	£0.00	£0
Over 38 (77% reduce capacity)	£1,065	<£0.01	£133,536
Totals	£73,566		£671,720
		One off	£293,417
		Ongoing	£378,303

In the first year of implementing the Directive, total costs to the industry, under the illustration, is estimated to be around £670k under Option 1 – some £290k in one off capital investment and £380k on ongoing costs due to increased production costs and loss in margins due to reduced turn over. For a typical 100,000 birds unit the expected additional costs will amount to some £75k – approximately £60k per annum in one off capital investment and £15k in ongoing costs.

(ii) Costs of reducing stocking density under Option 2

Under Option 2 the assumed 16% of holdings in Scotland stocking above 39 kg/m^2 would not be able to take advantage of the Annex V requirements even if they wished to and would therefore have to reduce stocking densities to 38 kg/m^2. As with Option 1 it is assumed that one third (around 30%) of holdings stocking above 39 kg/m^2 will build new capacity. Table 6 below presents estimated costs of complying with the stocking density requirements under Option 2.

Table 6. Costs of reducing stocking density under Option 2

Percentage Not Adopting Annex 5 Derogation	**100%**		
Impact on Capital Costs (one-off)			
	Typical 100k	**Cost per Bird needing re-housing**	**Total Industry**
Currently stock at 38	£0	£0.00	£0
Over 38 (30% build new capacity)	£84,311	£8.85	£426,789
Impact of Production costs (pa)			
	Typical 100k	**Cost per Bird**	**Total Industry**
Currently stock at 38	£0	£0.00	£0
Over 38	£21,146	£0.03	£356,025
Impact on net margin (pa)			
	Typical 100k	**Cost per Bird**	**Total Industry**
Currently stock at 38	£0	£0.00	£0
Over 38 (77% reduce capacity)	£1,549	<£0.01	£194,234
Totals	£107,006		£977,048
		One off	£426,789
		Ongoing	£550,259

Under Option 2, in this illustration, the total cost to the industry in the first year of implementing the Directive is estimated to be around £980k – some £430k in capital investment to expand housing and £550k in ongoing costs due to increased production costs and reduced turn over. For a typical unit of 100,000 birds this represents additional costs of around £110k – some £85k in additional investment and £25k per annum in ongoing costs.

d. Training costs

Annex IV of the Directive requires Member States to ensure that keepers receive sufficient training in their tasks and that appropriate training courses are available. The costs associated with training will fall primarily on the industry. It is expected that poultry keepers will be required to have an SVQ qualification (or similar) in Livestock Production (Poultry). Alternatively, existing skilled keepers could be awarded a certificate recognising prior experience (i.e. granted Grandfather Rights). It is estimated that 20% of poultry keepers currently involved in the industry are likely to ask to be granted Grandfather Rights, 70% will choose to complete the SVQ (or similar) assessment and 10% will already have the required qualifications. It is further estimated that there are around 200 keepers working on holdings which are estimated to be affected by the Directive, which implies some 140 keepers will need to complete the SVQ (or similar) assessment.

The main training costs will arise from the SVQ (or similar) "assessment of competence" which is estimated to cost around £1,500 per applicant. It has been assumed that there is estimated to be around 30 new entrants into the industry each year and, after the Directive is implemented, the industry will incur further costs to train these new keepers. Table 7 below gives estimates of additional training costs to the industry if the Directive is implemented.

Table 7. Estimates of training costs

Training costs	SVQ
One-off	
Grandfathering	£214,446
No Grandfathering	£262,693
Ongoing	£46,900
Ongoing PV (8 years)	£333,675
Total with Grandfathering	£548,121
Total without Grandfathering	£596,368

If Grandfather Rights are granted where appropriate, the industry could incur an initial cost of around £215k to train keepers currently working in the industry. The initial cost will increase to around £260k if Grandfather Rights are not granted. The ongoing costs applicable to the estimated 30 keepers expected to join the industry every year will amount to some £47k per annum, which discounted over 8 years, amounts to some £330k. Thus the total costs to the industry over an 8 year period could be somewhere between £550k and £600k respectively, depending on whether Grandfather Rights are granted or not.

e. Inspection and enforcement costs

The two main enforcement bodies, Food Standards Agency Operations (formerly the Meat Hygiene Service) and Animal Health operate on a GB basis and will put systems in place to implement operational aspects of the Directive.

Food Standards Agency Operations has produced estimates of costs they might incur to enforce the Directive at GB level. Based on current Official Veterinary Service and Meat Hygiene Inspectors charge-out rates, they estimate that total start up costs (training staff, policy work, IT development costs and amending their Operations manual) could be around £81k. The ongoing costs, arising from data collection and monitoring, are estimated at £82k per annum.

Animal Health will also incur additional costs due to an increased administration burden, development of inspection and enforcement systems and visiting holdings that choose to stock at the higher Annex V levels (these are only applicable under Option 1). It is estimated that at GB level these costs will amount to some £171k. Ongoing costs to Animal Health, which will arise from visits to enforce compliance, staff training, administration and ongoing systems development, have been estimated at £261k per annum.

Apportioning these costs to Scotland on the basis of Scotland's share of the industry, it is estimated that inspection and enforcement costs due to implementing the Directive in Scotland will amount to £22k in one off start up costs for the Food Standards Agency Operation Group and Animal Health (£19k under Option 2). The ongoing costs are estimated around £30k per annum.

- **Benefits arising from implementing the Directive**

As a result of the Directive, the welfare of chickens kept for meat would be improved without producers being disadvantaged by imports produced to lower standards elsewhere in Europe.

Consumers of chicken meat generally care about the welfare of meat chickens and place value on improving their welfare. To illustrate this in more detail, this regulatory impact assessment uses results from a study, commissioned by Defra (McVittie et al., 2006[3]), to estimate public willingness to pay for the improved welfare of chickens. The study used stated preference techniques (both contingent valuation and choice experiment methods) to estimate the non-market benefits of the whole Directive to the public and the benefits of the various aspects contained within it.

Respondents were asked how much they would be willing to pay in additional tax per year to improve the welfare of meat chickens in line with the Directive's proposal. The aggregate policy benefits in England were estimated to be around £158 million per year (with a 95% confidence interval of £112 million and £209 million). The study also explored public preferences for the different welfare attributes that would be delivered by the Directive. The weighting for the different attributes is given below in Table 8.

Table 8. Weightings of the benefits of movement between attributes

Attribute	Weighting
Stocking density: Change from 38 kg/m^2 to 30 kg/m^2	1.00
Footpad lesions: Change from 15% of flocks failing to 5%	0.77
Ventilation: Change from low to intermediate	0.69
Period of darkness: Change from 4 hours to 8 hours continuous	0.25

[3] McVittie A., D. Moran, V. Sandilands and N. Sparks (2006) Estimating non-market benefits of reduced stocking density and other welfare increasing measures for meat chickens in England, SAC Commercial Ltd, Project no. AW0236: http://sciencesearch.defra.gov.uk/Default.aspx?Menu=Menu&Module=More&Location=None&Completed=0&ProjectID=13788

When the sample of respondents to the contingent valuation question used in the study was analysed by socio-economic status (based on occupation), the top half of socio-economic groups showed average willingness to pay £7.21 per household per year compared to £3.06 for the bottom half socio-economic group. Table 9 below gives average annual willingness to pay values for households in different socio-economic groups and estimates of aggregate policy benefits in Scotland.

Table 9. Non market benefits of implementing Directive by socio-economic grouping

Consumer Group	**Willingness to Pay (£ per household per year)**	**Aggregate benefit (£ per year)**
Top half socio-economic group	£7.21	£8,289,775
Bottom half socio-economic group	£3.06	£3,513,250
Total		**£11,803,025**

By assuming that Scottish and English consumers are similar in their preference to improve the welfare of meat chickens, this Regulatory Impact Assessment estimates that the benefits to the Scottish public of implementing the Directive amounts to some £12 million per year under Option 1 or some £11 million per year under Option 2 (based on the number of households in Scotland).

6. Evaluation of options

A comparison of costs and benefits of implementing the Directive (i.e. Cost-Benefit Analysis) can inform whether it is worthwhile to implement the Directive and which of the options presented in Section 2 must be favoured. A comparison of the net benefits (total benefits minus total costs) under the two options will identify the option that should be preferred on an economic efficiency basis. Table 10 below gives a summary of the costs and benefits and also the net benefits under the two options over an 8-year period. To calculate the present value of the total ongoing costs and benefits over the 8-year period a discount rate of 3.5% has been used.

Table 10. Summary of costs and benefits of implementing the Directive

	Option 1	**Option 2**
Costs		
Annex 1		
One-off	£159,788	£159,788
Ongoing	£43,468	£43,468

Annex 2		
One-Off	£829,320	£829,320
Ongoing	£13,201	£13,201
Stocking Density		
One-Off	£293,417	£426,789
Ongoing	£378,303	£550,259
Training		
One-Off	£214,446	£214,446
Ongoing	£46,900	£46,900
Inspection and Enforcement		
One-off	£21,584	£18,644
Ongoing	£29,377	£29,377
Present Value of Total Ongoing Cost (8 years)	£3,637,304	£4,860,692
Present Value of Total Costs	**£5,155,860**	**£6,509,679**
Benefits		
Ongoing	£11,803,025	£11,280,952
Present Value of Benefits	£83,973,140	£80,258,832
Net Present Value of Net Benefits	**£78,817,280**	**£73,749,153**

The net present values of the net benefits under both options are positive indicating that the estimated benefits to Scottish households of implementing the Directive are greater than the total estimated costs of implementing the Directive. This suggests that it is economically worthwhile to implement the Directive following either of the options in paragraph 4. In other words there is economic evidence to justify Government intervention in improving the welfare of chickens kept for meat.

In terms of choosing between the two options, option 1, which allows the use of the Annex V derogation, has the lowest costs. However, this option would allow stocking at higher densities which could potentially compromise meat chicken welfare. Since no producers are known to operate at stocking densities higher than 38 kg/m^2 this option is not recommended.

7. Small firms impact test

The Directive will not apply to meat chicken producers who have holdings with fewer than 500 chickens so this removes very small producers from the scope of the legislation. In fact, out of a total of 2,798 holdings identified as having broilers and other table fowl in the 2008 Scotland June Agricultural and Horticultural Census, only 91 holdings had more than 500 birds. Since it is not possible to separate broilers and other table fowl or extensive indoor, free range and organically reared chickens, however, not all of the 87 holdings with more than 500 birds are necessarily affected. For most meat chicken producers who are affected,

however, it is envisaged that the Directive's requirements will simply build on systems, processes and best practice already in place.

A significant proportion of broiler production is under the complete control of the processing companies, with production farms owned by the company and managed and run by company employees. Most of the remaining producers are individual growers supplying these same producers under contract. These individual growers will either own outright or rent their buildings. Any investments in building structure or equipment would normally be paid for by the individual grower. Whilst the processing companies will generally have more than 250 full time equivalent employees, virtually all of the contracted producers will fall within the small firm's definition. Given that margins are already very tight in the UK broiler sector any increase in the cost of production could impose financial difficulties on smaller producers which could have a disproportionate effect since they would not be able to take advantage of the benefits of scale that larger producers could use to drive input costs to a lower level to survive. It could potentially be the case, however, that the holdings under the control of these large producers are affected in a different way to those independent holdings with more than 500 birds.

ADAS held a series of workshops in early 2004 with small and large broiler producers in order to gain their thoughts on the implications of the possible content of an EU Broiler Welfare Directive. Concern was expressed by smaller producers / contract growers that there simply was insufficient profit being made from broiler production in the UK to fund projects involving significant amounts of capital. In support of this, the 2005 ADAS / Exeter survey found that 12% of holdings could leave the industry if the Directive went ahead and that 12.4% of smaller producers in the UK had gone out of broiler production between 2002 and 2005. Although this may be due to other reasons, it is suggested many had left the industry at that time after concluding that their operation was too small and inefficient to be economically viable. Consequently, it is probable that smaller producers who may leave the industry in the event of the Directive would be those most likely to leave the industry anyway as a result of low profitability, ageing facilities and the lack of economies of scale.

8. "Test Run" of business forms

Animal Health will provide a form which will be used by the industry (including Scottish producers) to apply for Grandfather Rights and for notification purposes should any producers intend to stock above 33 kg/m^2. This form will be reviewed by the Core Stakeholder Group and other interested parties to ensure that it is fit for purpose prior to issue.

9. Competition assessment

The UK poultry meat industry is characterised by a high degree of concentration, with five companies controlling 80% of meat chicken production. The main companies are vertically integrated. Implementation of the Broiler Welfare Directive would inevitably increase production costs for UK broiler producers and it is probable that the impact of the Directive would not be evenly felt by producers. The major companies with large units are relatively unconcerned about the temperature lift requirement, whereas smaller independent producers are more likely to have to upgrade to meet this requirement and other requirements relating to lighting and humidity. These smaller (typically approximately 40,000 birds per flock) non-company producers therefore face much higher compliance costs compared to a large company producer with a typical flock size of over 100,000. It is unlikely that these smaller non-company producers, who are producing to a lower welfare standard, would, however, choose to invest the money to upgrade their accommodation, since even if the cost of the Directive to an average firm could be passed on to consumers via higher prices, this would still not cover their costs. They would therefore leave the industry but the majority of large company owned producers would stay.

It is unlikely that there would be any significant extra set-up or ongoing costs to firms entering the industry when compared to the costs that existing firms would need to meet under the Directive. Also, if all EU Member States implement the Directive to the same extent and over the same time frame, the competitive position of UK broiler producers relative to their EU competitors would not be affected.

10. Enforcement, sanctions and monitoring

This will involve implementing the Directive with the inspection regimes and data systems of Food Standards Agency Operations and Animal Health. Food Standards Agency Operations are responsible for the protection of public health and animal health and welfare in Great Britain, through proportionate enforcement of legislation in approved fresh meat premises. Animal Health are primarily responsible for ensuring that farmed animals in Great Britain are healthy, disease-free and well looked after. These bodies would be solely responsible for checking compliance with the Annex II and V criteria to allow the use of derogations permitting higher stocking densities and will provide ongoing monitoring. Local authorities will also have power to enforce the Regulations.

11. Implementation and delivery plan

The Regulations are subject to the affirmative procedure so will need to be approved by a resolution of the Scottish Parliament. Once the Regulations are in force animal keepers will be issued with forms by Animal Health which they can use to apply for Grandfather Rights for a limited period of time (up to 6 months after the implementing Regulations come into force), if applicable, and to notify the Scottish Ministers of any intention to stock at higher stocking densities. Keepers who require training will be given some time to comply with the requirements as will producers who need to upgrade holdings with regard to equipment. Monitoring and data collection will be undertaken by Food Standards Agency Operations and Animal Health in line with the requirements of Council Directive 2007/43/EC and the results will be submitted to the Commission.

12. Post-implementation review

The Commission will submit a report to the European Parliament and Council by 30 June 2012 concerning the application of the Directive and its influence on the welfare of chickens and the development of welfare indicators. This report will be based on available data provided by Member States and will take into account different production conditions/methods and the socioeconomic and administrative implications of the Directive, including regional aspects.

Defra will carry out a post implementation review of the effect of the implementing Regulations by June 2013. The review will include monitoring of enforcement agent implementation activity, consideration of actual costs to the UK industry, benefits to consumers and improvements in chicken welfare. This will enable the competent authorities to evaluate their policy positions and, if necessary, make amendments.

13. Recommendation

Based on the analysis outlined above the Scottish Government recommends implementing option 2.

14. Declaration and publication

I have read the Regulatory Impact Assessment and am satisfied that the balance between cost and benefit is the right one in the circumstances.

Signed……..

Date……

Richard Lochhead
Cabinet Secretary for Rural Affairs and the Environment