
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers in section 20(5)(b) of the Animal Health and Welfare (Scotland) Act 2006 (“the Act”), which enable the Scottish Ministers to specify procedures to which section 20 of the Act does not apply.

These Regulations revoke and replace (with amendments) the Prohibited Procedures on Protected Animals (Exemptions) (Scotland) Regulations 2007 and the Prohibited Procedures on Protected Animals (Exemptions) (Scotland) Amendment Regulations 2009. The provisions in the revoked Regulations relating to the authorisation of hot branding of equine animals have not been re-enacted and no savings have been made as no authorisations exist at the date of making these Regulations.

The Regulations also implement provisions in the following EU legislation:—

Council Directive [1999/74/EC](#) laying down minimum standards for the protection of laying hens;

Council Directive [2007/43/EC](#) laying down minimum rules for the protection of chickens kept for meat production; and

Council Directive [2008/120/EC](#) laying down minimum standards for the protection of pigs.

Section 20(1) of the Act makes it an offence to carry out, or cause to be carried out, a prohibited procedure on a protected animal. Section 20(2) makes it an offence for a person responsible for an animal to permit or fail to take reasonable steps to prevent a prohibited procedure being carried out on a protected animal. Section 20(3) makes it an offence to take an animal, or cause an animal to be taken, from a place in Scotland for the purpose of having a prohibited procedure carried out on that animal at a place outwith Scotland.

“Protected animal” is defined in section 17 of the Act as an animal which is of a kind commonly domesticated in the British Islands, under the control of man on a permanent or temporary basis, or not living in a wild state. In terms of section 20(4) of the Act a reference to the carrying out of a prohibited procedure on an animal is to the carrying out of a procedure which involves interference with the sensitive tissues or bone structure of the animal.

Regulation 3 and Schedules 1 to 12 exempt certain procedures from the application of section 20 of the Act where they are carried out for specified purposes and in accordance with any specified condition and with good practice. Guidance on good practice is found in the animal welfare codes which may be viewed on the Scottish Government website at www.scotland.gov.uk.

Notwithstanding that these Regulations exempt certain procedures from the statutory prohibitions in section 20, those procedures remain subject to requirements imposed by other legislation and, in particular, these Regulations do not permit procedures to be carried out by anyone except in accordance with the Veterinary Surgeons Act 1966. Information on several of those requirements, and the related legislation, can be found in the animal welfare codes.

A Regulatory Impact Assessment has not been produced for this instrument as it has no impact on the costs of business.