

**2007 No. 256**

**ANIMALS**

**PREVENTION OF HARM**

**The Prohibited Procedures on Protected Animals (Exemptions)  
(Scotland) Regulations 2007**

*Made* - - - - - *20th March 2007*

*Coming into force in accordance with regulation 1*

The Scottish Ministers, in exercise of the powers conferred by section 20(5)(b) and (c) of the Animal Health and Welfare (Scotland) Act 2006(a) and of all other powers enabling them in that behalf, after consultation with such persons appearing to them to represent relevant interests, and such other persons, as they consider appropriate in accordance with section 20(6) of that Act, hereby make the following Regulations, a draft of which has, in accordance with section 51(3) of that Act, been laid before and approved by resolution of the Scottish Parliament:

**Citation and commencement**

1. These Regulations may be cited as the Prohibited Procedures on Protected Animals (Exemptions) (Scotland) Regulations 2007 and shall come into force on the day after the day on which they are made.

**Interpretation**

2. In these Regulations—

“agricultural land” means land used for agriculture (within the meaning of the Agriculture (Scotland) Act 1948(b)) which is so used for the purposes of a trade or business;

“bovine animal” means any animal of genera *Bos*, *Bison* or *Bubalus*;

“deer park” means an area enclosed by a deer-proof barrier where deer of any species are kept for public display;

“disbudding” means the removal of the horn bud;

“dock” means the amputation of one or more coccygeal vertebrae of the tail of an animal;

“domestic fowl” means a domesticated member of the species *Gallus gallus*;

“dubbing” means the removal of all or part of the comb of a bird;

“equine animal” means any animal of genus *Equus* including hybrids;

“exempted procedure” means a procedure which is specified in Schedules 1 to 12 to these Regulations in relation to the particular type of protected animal(c) on which the procedure is performed;

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(a) 2006 asp 11.

(b) 1948 c.45.

(c) “protected animal” is defined in section 17 of the Animal Health and Welfare (Scotland) Act 2006.

“farmed deer” means deer of any species which are kept on agricultural land enclosed by a deer-proof barrier or on a deer park;

“farmed pig” means a pig kept, fattened or bred for the production of food;

“farmed sheep” means a sheep kept, fattened or bred for the production of food or wool;

“laying hen” means a domestic fowl which is kept or to be kept for the production of eggs not intended for hatching;

“pinioning” means the disabling of the wing of a bird by the removal of the metacarpal bone and phalanges of one wing;

“poultry” means any bird reared or kept in captivity for the production of meat or eggs for consumption, or of other products, for restocking supplies of game or for the purpose of any breeding programme for the production of such categories of birds;

“specified condition” means a condition specified in Schedules 1 to 12 to these Regulations in relation to the performance of the exempted procedure on the type of animal concerned;

“specified purpose” means a purpose specified in Schedules 1 to 12 to these Regulations for which the exempted procedure may be performed on the type of animal concerned; and

“veterinary surgeon” means any person who is qualified to carry out acts of veterinary surgery as defined by the Veterinary Surgeons Act 1966(a).

### **Exempted procedures**

3. Section 20 of the Animal Health and Welfare (Scotland) Act 2006 does not apply where—

- (a) the procedure is an exempted procedure carried out for a specified purpose;
- (b) any specified condition is complied with; and
- (c) the procedure is carried out in accordance with good practice.

### **Authorisations to hot brand equine animals**

4.—(1) The Scottish Ministers may authorise any person to hot brand equine animals subject to such conditions as they consider appropriate and may vary or revoke such authorisation as they see fit.

(2) An application for authorisation must specify—

- (a) the name and address of the applicant and all persons for whom an authorisation to carry out the hot branding of equine animals is sought;
- (b) details of where, when and for what purpose the identification of equine animals by hot branding is to be carried out; and
- (c) details of the numbers and types of equine animals to be hot branded.

(3) Any decision to refuse or revoke an authorisation, or to apply or vary conditions attached to an authorisation, shall be communicated by the Scottish Ministers to the applicant in writing, giving the reasons for such refusal, revocation, condition or variation together with details of the right of the applicant to have that decision reviewed by persons appointed by the Scottish Ministers in accordance with regulation 5.

### **Review**

5.—(1) An applicant who has had their application for authorisation refused, or their authorisation revoked or subjected to any condition or variation may, within 21 days of notification by the Scottish Ministers of that decision, apply to the Scottish Ministers to have that decision reviewed.

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(a) 1966 c.36, as amended by S.I. 1988/526, S.I. 1991/1412 and 2002/1479.

(2) Where an application is made under paragraph (1) the Scottish Ministers shall appoint such persons (who may include members of the staff of the Scottish Administration) as they consider appropriate to review the decision.

(3) The persons appointed to review the decision may conduct the review in such form and manner, including considering representations by both parties, as they see fit and shall prepare and send a report to the Scottish Ministers with their recommendation as to how to determine the review.

(4) The Scottish Ministers, having regard to the report sent to them under paragraph (3), shall—

- (a) determine the review; and
- (b) give to the person who requested the review—
  - (i) written notification of their determination and their reasons for it; and
  - (ii) if the person so requests, a copy of the report sent to them under paragraph (3).

(5) Any reference in this regulation or regulation 4 to anything done in writing or produced in written form includes a reference to an electronic communication as defined in section 15(1) of the Electronic Communications Act 2000<sup>(a)</sup>, which has been recorded and is consequently capable of reproduction.

(6) An electronic communication may only be sent to a person where the recipient has consented to that method of communication.

### **Revocations**

6. The instruments specified in column 1 of Schedule 13 to these Regulations are revoked to the extent set out in the corresponding entry in column 3 of that Schedule.

St Andrew's House,  
Edinburgh  
20th March 2007

*ROSS FINNIE*  
A member of the Scottish Executive

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(a) 2000 c.7. Section 15(1) was amended by paragraph 158 of Schedule 17 to the Communications Act 2003 (c.21).

## SCHEDULE 1

Regulations 2 and 3

### Bovine animals

<b>Procedure</b>	<b>Purpose</b>	<b>Condition</b>
Freeze branding	Identification	
Tattooing	Identification	
Ear tagging	Identification	
Micro chipping	Identification	
Vasectomy	Controlling reproduction or general animal management	
Castration	Controlling reproduction or general animal management	
Spaying	Controlling reproduction or general animal management	
Embryo transfer	Controlling reproduction or general animal management	
Nose ringing	Handler safety or herd welfare	
Dehorning	Handler safety or herd welfare	
Disbudding	Handler safety or herd welfare	
Supernumerary teat removal	Animal health	

## SCHEDULE 2

Regulations 2 and 3

### Pigs

Procedure	Purpose	Condition
Tattooing	Identification	
Ear tagging	Identification	
Ear notching	Identification	
Micro chipping	Identification	
Vasectomy	Controlling reproduction or general animal management	
Spaying	Controlling reproduction or general animal management	
Castration	Controlling reproduction or general animal management	<p>May only be performed by means which do not involve the tearing of tissues.</p> <p>If castration is carried out after the seventh day of life it shall only be performed under anaesthetic and additional prolonged analgesia.</p> <p>Where the person performing the procedure is not a veterinary surgeon that person must be trained in accordance with the Welfare of Farmed Animals (Scotland) Regulations 2000(a).</p>
Embryo transfer	Controlling reproduction or general animal management	
Tusk trimming	Handler safety or herd welfare	Where the person performing the procedure is not a veterinary surgeon that person must be trained in accordance with the Welfare of Farmed Animals (Scotland) Regulations 2000.
Docking	Handler safety or herd welfare	<p>May only be performed where—</p> <p style="margin-left: 40px;">(a) the pig is a farmed pig kept on agricultural land;</p>

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(a) S.S.I. 2000/442, amended by S.S.I. 2002/334 and 2003/448.

Procedure	Purpose	Condition
		<p>(b) other measures to improve environmental conditions or management systems have been taken in order to prevent tail biting but there is still evidence of injury to the tails of other pigs; and</p> <p>(c) the procedure is performed by the quick and complete severance of the part of the tail to be removed.</p> <p>If docking is carried out after the seventh day of life it shall only be performed under anaesthetic and additional prolonged analgesia.</p> <p>Where the person performing the procedure is not a veterinary surgeon that person must be trained in accordance with the Welfare of Farmed Animals (Scotland) Regulations 2000.</p>
Uniform reduction of the corner teeth	Herd welfare	<p>May only be performed where–</p> <p>(a) the pig is a farmed pig kept on agricultural land;</p> <p>(b) the pig is less than eight days old;</p> <p>(c) other measures to improve environmental conditions or management systems have been taken in order to prevent tail biting but there is still evidence of injury to sows' teats or to the ears or tails of other pigs; and</p>

Procedure	Purpose	Condition
		<p>(d) the reduction is performed by grinding or clipping leaving an intact smooth surface.</p> <p>Where the person performing the procedure is not a veterinary surgeon that person must be trained in accordance with the Welfare of Farmed Animals (Scotland) Regulations 2000.</p>
Nose ringing	General animal management	<p>May only be performed on a pig which is not intended to be kept continuously in an indoor husbandry system.</p> <p>Where the person performing the procedure is not a veterinary surgeon that person must be trained in accordance with the Welfare of Farmed Animals (Scotland) Regulations 2000.</p>

## SCHEDULE 3

Regulations 2 and 3

### Birds

Procedure	Purpose	Condition
Micro chipping	Identification	
Beak trimming	Flock welfare	<p>May only be performed on poultry.</p> <p>May only be performed–</p> <ul style="list-style-type: none"> <li>(a) if carried out as a single procedure, provided no more than a one third part of both the upper and lower beaks, measured from the tip towards the entrance to the nostrils, is removed; or</li> <li>(b) provided no more than a one third part of the upper beak only, measured as above, is removed.</li> </ul> <p>In either case any subsequent haemorrhage from the beak must be arrested by cauterization.</p> <p>Beak trimming may only be performed where a veterinary surgeon considers the beak trimming to be necessary to prevent feather pecking or cannibalism and measures to improve the environmental conditions have been taken.</p> <p>Beak trimming of laying hens may only be performed on birds aged 10 days or less kept in flocks of 350 or more birds.</p> <p>Beak trimming of laying hens may only be performed until 31st December 2010.</p>
De-snooding	General animal management	May only be performed on turkeys
Cutting of the toes	General animal management	May only be performed on poultry other than laying hens



<b>Procedure</b>	<b>Purpose</b>	<b>Condition</b>
Dubbing	General animal management	May only be performed on domestic fowls other than laying hens
Pinioning	General animal management	May be performed on any bird other than poultry
Laparoscopy	General animal management	

## SCHEDULE 4

Regulations 2 and 3

### Sheep

Procedure	Purpose	Condition
Tattooing	Identification	
Ear tagging	Identification	
Ear notching	Identification	
Micro chipping	Identification	
Vasectomy	Controlling reproduction or general animal management	
Castration	Controlling reproduction or general animal management	
Spaying	Controlling reproduction or general animal management	
Embryo transfer	Controlling reproduction or general animal management	
Dehorning	Handler safety or flock welfare	
Disbudding	Handler safety or flock welfare	
Docking	Animal health	<p>May only be performed where–</p> <ul style="list-style-type: none"> <li>(a) the sheep is a farmed sheep kept on agricultural land; and</li> <li>(b) sufficient tail is retained to cover the vulva in the case of female sheep and the anus in the case of male sheep.</li> </ul>

## SCHEDULE 5

Regulations 2 and 3

### Goats

<b>Procedure</b>	<b>Purpose</b>	<b>Condition</b>
Tattooing	Identification	
Ear tagging	Identification	
Ear notching	Identification	
Micro chipping	Identification	
Vasectomy	Controlling reproduction or general animal management	
Castration	Controlling reproduction or general animal management	
Spaying	Controlling reproduction or general animal management	
Embryo transfer	Controlling reproduction or general animal management	
Dehorning	Handler safety or herd welfare	
Disbudding	Handler safety or herd welfare	

## SCHEDULE 6

Regulations 2 and 3

### Equine Animals

<b>Procedure</b>	<b>Purpose</b>	<b>Condition</b>
Freeze branding	Identification	
Hot branding	Identification	May only be performed subject to, and in accordance with, any authorisation granted or determined by the Scottish Ministers under regulations 4 and 5.
Tattooing	Identification	
Micro chipping	Identification	
Vasectomy	Controlling reproduction or general animal management	
Castration	Controlling reproduction or general animal management	
Spaying	Controlling reproduction or general animal management	
Embryo transfer	Controlling reproduction or general animal management	

## SCHEDULE 7

Regulations 2 and 3

### Deer

Procedure	Purpose	Condition
Tattooing	Identification	
Ear tagging	Identification	
Ear notching	Identification	
Micro chipping	Identification	
Vasectomy	Controlling reproduction or general animal management	
Castration	Controlling reproduction or general animal management	
Spaying	Controlling reproduction or general animal management	
Embryo transfer	Controlling reproduction or general animal management	
Antler removal	Handler safety or herd welfare	May only be performed where— (a) the deer is a farmed deer; and (b) the velvet is frayed and the greater part of it shed.

## SCHEDULE 8

Regulations 2 and 3

### Cats

<b>Procedure</b>	<b>Purpose</b>	<b>Condition</b>
Ear tipping	Identification	May only be performed on feral cats.
Micro chipping	Identification	
Tattooing	Identification	
Vasectomy	Controlling reproduction or general animal management	
Castration	Controlling reproduction or general animal management	
Spaying	Controlling reproduction or general animal management	

## SCHEDULE 9

Regulations 2 and 3

### Dogs

<b>Procedure</b>	<b>Purpose</b>	<b>Condition</b>
Micro chipping	Identification	
Tattooing	Identification	
Vasectomy	Controlling reproduction or general animal management	
Castration	Controlling reproduction or general animal management	
Spaying	Controlling reproduction or general animal management	
Embryo transfer	Controlling reproduction or general animal management	
Amputation of dew claws	General animal management	

## SCHEDULE 10

Regulations 2 and 3

### Fish

<b>Procedure</b>	<b>Purpose</b>	<b>Condition</b>
Chemical branding	Identification	
Freeze branding	Identification	
Pit tagging	Identification	
Micro chipping	Identification	
Removal or perforation of parts of the fins, adipose fins or fin rays	Identification	
Removal of fish scales	Age determination or stock management	



SCHEDULE 11

Regulations 2 and 3

Reptiles

<b>Procedure</b>	<b>Purpose</b>	<b>Condition</b>
Micro chipping	Identification	
Laparoscopy	General animal management	

## SCHEDULE 12

Regulations 2 and 3

### Any other kind of animal

<b>Procedure</b>	<b>Purpose</b>	<b>Condition</b>
Micro chipping	Identification	
Tattooing	Identification	
Vasectomy	Controlling reproduction	
Castration	Controlling reproduction	
Spaying	Controlling reproduction	
Embryo transfer	Controlling reproduction	

## SCHEDULE 13

Regulation 6

### Revocations

<b>Column 1 Legislation revoked</b>	<b>Column 2 References</b>	<b>Column 3 Extent of revocations</b>
The Welfare of Livestock (Prohibited Operations) Regulations 1982	S.I. 1982/1884, amended by S.I. 1987/114	The whole Regulations.
The Welfare of Livestock (Prohibited Operations) (Amendment) Regulations 1987	S.I. 1987/114	The whole Regulations.
The Welfare of Farmed Animals (Scotland) Regulations 2000	S.S.I. 2000/442, amended by SSI 2002/334 and 2003/448	Schedule 3D, paragraphs 8 and 9. Schedule 6, Part II, paragraphs 19 to 26.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

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

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 17 of the Act defines “a protected animal” as being an animal which is “of a kind which is commonly domesticated in the British Islands, under the control of man on a permanent or temporary basis, or not living in a wild state”.) Section 20(2) makes it an offence or 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 or cause to be taken an animal from a place in Scotland for the purposes of having a prohibited procedure carried out on that animal outwith Scotland.

A prohibited procedure is a procedure which involves the interference with the sensitive tissues or bone structure of an animal in terms of section 20(4) of the Act. Section 20(5)(a) provides that section 20 does not apply to procedures where they are carried out for the purpose of the medical treatment of an animal.

These Regulations specify exempted procedures to which section 20 will not apply provided they are carried for a specified purpose, in accordance with any specified conditions and in accordance with good practice (regulation 3). (Regulation 2 defines “exempted procedure”, “specified purpose” and “specified condition”.)

Schedules 1 to 12 list, by type of animals, the procedures exempted, the purposes for which those procedures may be carried out and any applicable conditions.

Schedule 13 lists the instruments which are revoked by these Regulations.

These Regulations also partially implement Council Directive 91/630/EEC of 19 November 1991 laying down minimum standards for the protection of pigs (O.J. L340, 11.12.1991, p.33) as amended by Council Directive 2001/88/EC of 23 October 2001 (O.J. L316, 1.12.2001, p.1), Commission Directive 2001/93/EC of 9 November 2001 (O.J. L316, 1.12.2001, p.36) and Council Regulation (EC) 806/2003 of 14 April 2003 (O.J. L122, 16.5.2003, p.1) and Council Directive 1999/74/EC of 19 July 1999 laying down minimum standards for the protection of laying hens (O.J. L203, 3.8.1999, p.53), as also amended by Council Regulation (EC) 806/2003 of 14 April 2003. The provisions of both of these Directives now being implemented by these Regulations were previously implemented by the Welfare of Farmed Animals (Scotland) Regulations 2000.

The restrictions on the performance of acts of veterinary surgery set 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 (c.46), the Protection of Animals (Anaesthetics) Act 1964 (c.39) and related instruments are unaffected by these Regulations.

These Regulations come into force on the day after the day on which they are made.

A Regulatory Impact Assessment of the effect which this instrument will have on the costs of business has been prepared and placed in the Scottish Parliament reference centre. Copies of the Regulatory Impact Assessment are available from the offices of the Scottish Executive Environment and Rural Affairs Department at Pentland House, 47 Robb’s Loan, Edinburgh, EH14 1TY.







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**£4.00**

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03/07

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