

## **EXPLANATORY MEMORANDUM**

### **THE WELFARE OF ANIMALS (SLAUGHTER OR KILLING) (AMENDMENT) (ENGLAND) REGULATIONS 2007**

**2007 No. 402**

1. This explanatory memorandum has been prepared by Defra and is laid before Parliament by Command of Her Majesty.

#### **2. Description**

These Regulations, which apply to England only, amend the Welfare of Animals (Slaughter or Killing) Regulations 1995. The 1995 Regulations give effect to Council Directive 93/119/EC on the protection of animals at the time of slaughter or killing (OJ No. L 340, 31.12.93, p.21).

These Regulations insert a new Schedule 7A into the 1995 Regulations. The amendment permits the killing of end of lay hens and end of life breeder hens by exposure to gas on the premises where they have been housed (regulation 2(5)).

Schedule 7A also allows the Secretary of State to authorise the killing of birds by exposure to gas elsewhere than in a slaughterhouse.

These Regulations also give effect to amendments made to Council Regulation (EC) 1/2005 on the protection of animals during transport, to Council Directive 93/119/EEC on the use of instruments which administer electric shocks to adult bovines and adult pigs.

#### **3. Matters of special interest to the Joint Committee on Statutory Instruments**

None

#### **4. Legislative Background**

- 4.1 These Regulations amend legislation in England to permit the use of gas as a killing method outside of a slaughterhouse in prescribed circumstances.

The principal changes:

- End of lay hens and end of life breeder birds may now be killed on farm at the end of their productive lives by exposure to gas. This is subject to the owner of the birds giving 5 days notice to the Secretary of State, citing the gas and delivery mechanism to be used. This will allow for inspection of the killing to be carried out.

- Where healthy birds cannot be moved to a slaughterhouse because of restrictions on their movement, the Secretary of State may authorise the use of gas as a killing method on the premises providing that:
  - the occupier of the premises has taken reasonable measures to avoid welfare problems, and
  - a veterinary surgeon has inspected the birds and has confirmed that, in his or her opinion, the birds' welfare will be gravely compromised within the 7 days following the date of the inspection.
- The amendment sets out conditions for the construction and operation of the chamber used for the killings. The approved gas mixtures and chamber combinations are also laid out. This killing method can only be used by a licensed operator competent in the deployment of this killing method.

4.2 The amendment on the use of instruments which administer electric shocks requires their use to be avoided as far as possible and restricts the shocks administered to bovines and pigs to lasting no more than one second each.

## **5. Territorial Extent and Application**

This instrument applies to England

## **6. European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

- 7.1 Allowing end of lay hens and breeder birds to be killed on farm can deliver significant welfare benefits and may also deliver economic benefits to the owners of the birds.
- 7.2 The use of gas for killing provides a killing option appropriate to large numbers of birds which could be used in emergencies that restrict their movement off farm and as a result threatens the birds' welfare.
- 7.3 A 12 week public consultation took place from May 2006 with a subsequent further consultation on proposals received to extend the scope of the amendment to include end of life breeder birds. 180 interested parties were consulted and responses were received from welfare organisations, industry, the veterinary profession, academia and members of the public. Most respondents welcomed the proposals especially for end of lay hens and supported the inclusion of end of life breeder birds. Some concerns were expressed about the aversiveness of carbon dioxide and the importance of checks and safeguards. Checks and safeguards have been addressed by requiring notification of the intended killing of end of life birds, requiring

authorisations for killing birds for welfare reasons and only permitting competent operators to carry out killing. The benefits to bird welfare of dealing rapidly with potential welfare problems and avoiding the stresses that end of life birds experience is considered to significantly outweigh the potential for some aversion to carbon dioxide. A full response to the public consultation has been published on the Defra website.

## **8 Impact**

8.1 A Regulatory Impact Assessment is attached to this memorandum.

8.2 The impact on the public sector will relate to notification of the State Veterinary Service as to when these killing options for end of life birds would take place to enable risk based enforcement checks. It is envisaged that the uptake of these options will be gradual and relatively small with minimal reallocation of resources from present inspections. .

## **9. Contact**

The Animal Welfare at Slaughter Team ([aw-slaughter@defra.gsi.gov.uk](mailto:aw-slaughter@defra.gsi.gov.uk)) can answer any queries about the instrument:

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# Revised Regulatory Impact Assessment (RIA)

## Welfare of Animals (Slaughter or Killing) (Amendment) (England) Regulations 2007

### 1. PROPOSAL

To amend the Welfare of Animals (Slaughter or Killing) Regulations 1995 (WASK) to permit the use of gas as a killing method for birds outside of a slaughterhouse in prescribed circumstances.

### 2. PURPOSE AND INTENDED EFFECT OF THE MEASURE

#### Objectives

The key objectives of the amendment are:

- to provide a high-throughput means of killing healthy birds on farm prior to any onset of welfare problems;
- to provide a means of improving the welfare of end of lay hens and breeder birds.

#### Background

There are situations in which the welfare of large numbers of birds may be put at risk on farm by an inability to move such birds off farm for commercial slaughter (e.g. movement restrictions relating to avian influenza; market collapse or other emergencies, such as flooding). It is therefore prudent to consider appropriate high-throughput culling methods that could be applied in various situations. These high-throughput methods could also be applied to end of lay hens and breeder birds on farm, which would deliver welfare benefits by obviating the need to transport them to a slaughterhouse at the end of their productive lives.

#### Legal background

The proposed draft amendment will amend WASK to enable the use of gas mixtures as a killing method for birds, including end of lay hens and breeder birds, outside of a slaughterhouse in prescribed circumstances.

Birds that are already suffering should be killed immediately with currently permitted methods, in accordance with the emergency welfare provisions of WASK. Killing for disease control purposes is also unaffected by the proposals in this consultation – the existing methods available in WASK, including gas, can be employed.

For healthy birds that are at risk of imminent suffering, the killing options are more limited. At present, dislocation of the neck, free bullet, decapitation and electrocution are permitted methods in these circumstances. These methods offer low throughput, are labour-intensive and not suitable for larger-scale culling of birds. The proposed amendment will allow gas to be used to cull in these circumstances, as it is a more

appropriate means for killing large number of birds than the existing methods cited above.

### Possible scenarios

The use of gas outside a slaughterhouse is already permitted in WASK for disease control and emergency welfare killing – as noted above. It is not allowed for use on birds which are healthy at the point of killing, even if they are at imminent risk of suffering welfare problems.

We can envisage situations when poultry farmers are unable to move healthy birds to slaughterhouses. Such situations would include the imposition of movement restrictions (as a result of a notifiable disease outbreak, for example); a collapse in the poultry meat market brought on by loss of public confidence (perhaps stimulated by food safety scares or concerns over disease outbreaks); and flooding, fuel shortages, or other emergencies. Birds stranded on farm for these reasons may be at risk of rapidly developing serious welfare problems. In such circumstances, it is necessary that farmers take preventive action prior to welfare problems developing, which may include culling large numbers of birds. This amendment seeks to make available means of killing large numbers of birds on farm with gas in such situations. The adoption of these measures should enable farmers to control effectively bird numbers on their farms and avert serious welfare problems.

The other situation addressed separately by the amendment is the killing of end-of-lay hens and end of life breeder birds on the farm with the use of gas. At present, the birds are transported long distances by road to be slaughtered (as few slaughterhouses process end of life birds) and the transit process can be stressful. By permitting killing on the farm of origin the need for transportation is negated. The need for handling could also be removed if whole house gassing were used. Gas is the most viable option for humanely and efficiently killing large numbers of these birds.

### **Rationale for government intervention**

As noted above, large-scale culling for welfare purposes may be necessary and it is sensible to ensure that appropriate methods are made available.

Welfare disposal enables the humane killing, on farm, of birds which are at imminent risk of suffering welfare problems, in circumstances when their movement to a slaughterhouse is impracticable . There may be a need to cull very large numbers of birds in such circumstances and the current methods permitted in WASK are not appropriate for larger scale culling.. The amendment makes available methods of killing better suited to larger flocks to assist industry by providing a high throughput option that delivers acceptable welfare. Allowing the use of gas will provide a viable alternative – it will not be compulsory.

The potential benefits of on-farm killing with gas for end-of-lay hens and breeder birds has been evident for some time. Allowing the hens to be killed with gas on the farm of origin (preferably in the poultry shed itself) can negate the need for handling and transportation, delivering an improvement in the welfare for these birds. Again,

this is a matter of providing industry with an additional tool (not currently available) to address a specific issue and allows industry the flexibility to opt for a method that may deliver economic benefits; there will be no compulsion to use this method.

### **3. CONSULTATION**

#### **Within Government**

The State Veterinary Service, Animal Welfare Division, Livestock Strategy Division and Livestock Data Division have been consulted, together with the devolved administrations.

#### **Public consultation**

Welfare experts at the University of Bristol, welfare groups (the RSPCA and the Humane Slaughter Association) and the British Poultry Council were all consulted informally in the drawing up of these proposals. A formal public consultation (which concluded on 30 August 2006: <http://www.defra.gov.uk/corporate/consult/waskregs-amend/index.htm>) on the SI as a whole was followed by a three week consultation on the specific issue of breeder birds, which arose out of the formal consultation. These consultations received 32 responses and our formal response to the views received in this consultation process can be found on the website.

### **4. OPTIONS**

#### **Option 1: Do nothing.**

Doing nothing will mean that the only legal methods available for killing large numbers of healthy birds outside of a slaughterhouse for welfare reasons will be free bullet, electrocution, neck dislocation and decapitation. Aside from the possibility of welfare being compromised through the fatigue of those carrying out culling, these are labour intensive and, for large farms (25,000+ birds), wholly impractical.

This option is **not** recommended.

#### **Option 2: Amend legislation to:**

Allow the use of gas outside of a slaughterhouse in the circumstances prescribed in the amendment. This will permit an appropriate method of culling large numbers of birds. It will also give end of lay hen and breeder bird owners an alternative killing method which is better for welfare and that could deliver economic benefits to the industry.

As there is no element of compulsion for industry to use the proposed provisions, we are broadening options and are not imposing a regulatory burden. In the case of end-of-lay hens and breeder birds, there may be a cost benefit to the poultry industry as owners will have the option of killing on-farm and not paying a slaughterhouse to process these spent hens. There may be a small impact on hauliers and slaughterhouses that process the hens – these are considered below.

This is the **recommended** option, since options 1 and 3 do not address the practicalities of culling very large numbers of birds.

### Option 3: Consider alternatives to regulation

Government policy is to ensure that, for whatever reason, animals are culled in a humane manner. Ongoing research has demonstrated that the killing with gas is a viable option and it is therefore reasonable for the government to permit this method to be used in certain circumstances. Not setting out the specific circumstances and criteria for use in regulations, and instead opting for a voluntary code or guidance, could lead to incorrect or inappropriate use of this method. European legislation also requires that clear parameters are set for the use of gas as a killing method.

This option is **not** recommended.

## 5. COSTS AND BENEFITS

### Cost breakdown

This breakdown pertains to the use of gas to kill end of lay hens and breeder birds on farm, which is an option made available by the SI. All costs are predicated upon the premise that 25,000 birds are to be killed using gas. The birds are considered to be housed in a standard shed.

#### 1 - Containerised gassing units (CGUs)

An individual container costs £300. To achieve a killing rate of around 5000 birds per hour, it is necessary to have two CGUs and a catching team of five people (working at an assumed £6 per hour). Industry standard transport modules are also required, but these are very likely to be available already on the farm as they are standard industry kit. This setup would allow for the 25,000 birds to be killed in around five to six hours.

The gas costs approximately £275 for a pallet of 12 cylinders. Approximately 4 pallets of gas would be required to kill 25,000 birds, at a total cost of £1100.

Total costs:

Transport modules	£0 (almost certainly available on farm already)
2 x CGUs (capital outlay):	£600
Tubing and monitoring kit	£300
Catcher costs:	£180
Gas :	£1100
<b>TOTAL:</b>	<b>£2180</b>

#### 2 - Whole house gassing

The shed will have to be suitably sealed (with plastic sheeting, which is a minimal cost) in advance. The presence of a vet for half a day (at approximately £300) will be necessary throughout the whole house gassing process.

The main cost is the gas and the gas engineer (again, for half a day), which comes to £3500 (including the provision of relevant equipment, pumps etc). This is sufficient to gas an entire shed of 25,000 birds.

Total costs:

Gas tanker and engineer:	£3500
Vet:	£300
<b>TOTAL:</b>	<b>£3800</b>

### 3 - Disposal costs

Disposal of 25,000 birds in these circumstances will generally be done by rendering. 25,000 broilers at around 2kg each would come in at 50 tonnes. Rendering is priced at c. £150 per tonne collected from the farm, so disposal of 25,000 birds would be around £7500.

Total costs:

50 tonnes at £150/tonne:	£7500
<b>TOTAL:</b>	<b>£7500</b>

### 4 - Administrative costs

The administrative costs would primarily entail notification of the SVS as to when killing would take place and which method is being used, thus enabling random enforcement checks to be made. We envisage that this would comprise a phone call, fax or letter to the local AHDO and would therefore represent a negligible cost .

With regard to the enforcement burden for the SVS, it is envisaged that uptake will be very gradual and relatively small, with minimal reallocation of resources from present inspections. A risk-based approach will be taken to all inspections. There is the option in the future for any SVS inspection to be charged to the farm, or to charge for extra official inspections where these are considered to be necessary.

### 5 – Slaughter and rendering

At present, most end of lay hens and breeder birds are transported to a slaughterhouse for slaughter and subsequent rendering. The estimated cost for this course of action is approximately 35 pence per bird.

Total costs:

25,000 birds at 35p:	£8750
<b>TOTAL:</b>	<b>£8750</b>

### Other issues

As the above illustrates, there are significant differences in the costs of whole house gassing and containerised gassing. It will be for the farmer in question to make a



commercial decision as to whether or not gassing represents an appropriate outlay for his business, compared with the costs incurred from sending the end of lay hens and breeders to a slaughterhouse and on for subsequent rendering.

The indications are that this would primarily be of interest to the very large integrated producers in the industry, given the economies of scale that may be possible. For example, the costs of whole house gassing with 100,000 birds will not be too much higher than to gas 25,000 – the only variable would be the amount of gas required (which is relatively inexpensive).

Gassing is a relatively new technology but we understand that there are one or two parties interested in making this a commercially-available service, primarily with containerised gassing units, which could reduce costs for producers (as there would be no capital outlay) and increase take up of this method, particularly for smaller producers.

### **Sectors and groups affected**

The use of gas for welfare killing is not compulsory, but will be of interest to various elements of industry, primarily poultry farmers and companies supplying gas services. If farmers choose to kill end of lay hens and breeder birds on farm there is potential for a small effect on some poultry hauliers and a small number of abattoirs.

The killing method made available by the amendment provides an additional option when culling large numbers of birds when they cannot be moved from the farm. Use of this method is not compulsory and as such there is no additional burden.

Allowing the use of gas to kill end of lay hens is providing an alternative option for owners, without any element of compulsion – there is no additional regulatory burden on industry.

The potential impact upon the slaughterhouses that deal with end of lay hens and breeder birds and the hauliers that transport them, is not clear. At present, owners pay slaughterhouses around 35 pence per hen for slaughter and rendering. There are a handful of slaughterhouses involved in the processing of the birds and we understand that for most of them, it is the bulk of their business. However, we anticipate that the initial outlay involved for the use of gas may mean that take-up of this option will be, in the short to medium-term, limited to a small number of producers. This means that any impact on abattoirs would be relatively small in the short-medium term and would allow for a substantial period of adjustment.

The possible impact upon hauliers is less clear, although the transport of end of life birds is a relatively small component of all bird transport. We are also aware that many farmers undertake their own transport of their spent hens, and as such, could view the option on farm killing as relieving the burden of having to transport such birds to slaughter. As with slaughterhouses, much depends on the rate of uptake. The take up of the on-farm option is highly likely to be slow and this will allow for a substantial period for adjustment.

Should any owner voluntarily decide to exercise the option to use gas on farm, whether for welfare killing or for end of lay hens, it will be for him to meet the costs of gas, equipment and expertise and ensure compliance with the relevant regulations. These costs are variable, dependent upon the chosen method and the type of gas employed. There is no mandatory element to this proposal and therefore no additional regulatory or financial burden upon owners.

## **Benefits**

- Economic – The main economic benefit of welfare killing is to provide an efficient alternative means of killing birds which cannot be moved to a slaughterhouse. With regard to end of lay hens, the main benefit is to owners, who will have the option of killing on farm as opposed to paying for the slaughter and rendering at a slaughterhouse. In both cases, businesses involved with the supply of gas and relevant engineering expertise, including new service providers, will see economic benefits.
- Social – It is important for government and industry that the public is confident that the welfare of animals is a prime consideration, especially when faced with the possibility of the need to cull on a large scale. In enabling the use of gas, this amendment addresses potential and real welfare concerns and allows the use of a more appropriate killing method for large numbers of birds. The measure will also help to ensure that the welfare problems do not arise on farm when circumstances prevent the movement of birds to slaughter.

## **Costs**

### **6. THE SMALL FIRMS IMPACT TEST**

The impact of the end of lay hen proposals on small firms (mainly poultry producers, hauliers and abattoirs) is as yet unclear. Based on the information we have at present, there could be consequences for the relatively small number of abattoirs (we understand there are four) that process end of lay hens. Were the number of spent hens to be processed fall, it is however likely that these abattoirs would simply transfer their operations to the processing of broiler chickens for the meat market.

We envisage, however, that given the initial outlay involved and the relatively new state of this killing method, uptake would be slow and the transition to this, if there were one, would provide a long period for abattoir and haulage businesses to adapt.

### **7. COMPETITION ASSESSMENT**

None of the policy options detailed above is expected to have any significant effect on competition.

## 8. ENFORCEMENT AND MONITORING

**Enforcement and monitoring:** The SVS will undertake random, risk-based inspections to monitor the use of gas on farm for killing end of life birds, as part of their remit includes ensuring compliance with WASK on farm premises. The possibility of charging for inspections is to be investigated. The SVS will take enforcement action as necessary, as set out in the existing provisions of WASK.

**Sanctions:** The sanctions for non-compliance with the relevant parts of WASK are unchanged by this amendment.

## 9. IMPLEMENTATION AND DELIVERY PLAN

*The SVS have agreed to inspect the use of this method on farm in accordance with risk based enforcement principles.*

## 10. POST-IMPLEMENTATION REVIEW

It is anticipated that these regulations and the inspection framework will be reviewed in the next 18 months.

## 11. SUMMARY AND RECOMMENDATION

The objectives of this amendment are to deliver a high-throughput means of killing healthy birds on farm prior to any onset of welfare problems and to provide a means of improving the welfare of end of lay hens and breeder birds. Permitting the use of gas as a killing method on farm is the most effective means of attaining these objectives and it is recommended that the measures contained within the statutory instrument be facilitated as swiftly as possible.

## 12. Declaration

**I have read the regulatory impact assessment and I am satisfied that the benefits justify the costs**

**Signed .....Ben Bradshaw.....**

**Date .....14th February 2007.....**

**Ben Bradshaw, Minister of State, Local Environment, Marine and Animal Welfare**

**Contact point: Slaughter Team  
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