

## **Explanatory Memorandum to the Mutilations (Permitted Procedures) (Wales) (Amendment) Regulations 2008**

This Explanatory Memorandum has been prepared by the Office of the Chief Veterinary Officer and is laid before the National Assembly for Wales in accordance with Standing Order 24.1.

### **Description**

1. These Regulations amend the Mutilations (Permitted Procedures) (Wales) Regulations 2007 by inserting new permitted procedures and the requirements that apply to them. The new permitted procedures are:
  - *For sheep and goats:*  
Embryo collection or transfer by a surgical method  
Laparoscopic insemination (only allowed as part of a breed improvement programme)  
Ovum transplantation (including ovum collection) by a surgical method
  - *For wild birds and farmed birds:*  
Wing tagging and web tagging
  - *For farmed ducks:*  
Neck tagging and web notching

### **Matters of special interest to the Subordinate Legislation Committee**

2. There are no matters of special interest to the Committee

### **Legislative Background**

3. Mutilations are referred to in the parent Act, the Animal Welfare Act 2006, as 'prohibited procedures'. A prohibited procedure is defined in section 5(3) of the Act as one 'which involves interference with sensitive tissues or bone structure of the animal, otherwise than for the purpose of its medical treatment'.
4. The enabling power to make the revised Regulations is contained in section 5(4) of the Animal Welfare Act 2006. That power is exercisable by the Welsh Ministers by virtue of paragraph 30 of Schedule 11 of the Government of Wales Act 2006 (2006 c.32).
5. The Statutory Instrument is to be made using the affirmative resolution procedure.

## **Purpose and intended effect of the legislation**

6. The Mutilations (Permitted Procedures) (Amendment) (Wales) Regulations 2008 amend the current Mutilations (Permitted Procedures) (Wales) Regulations 2007.
7. The 2007 Regulations were designed to put a general prohibition on all animal mutilation but to exempt mutilations carried out routinely in current farming practices. Once the 2007 Regulations came into force officials were made aware of certain procedures that were not highlighted by relevant industries during the original consultation but are in fact commonly used animal practices.
8. The following artificial breeding procedures relating to sheep and goats are at present banned under the 2007 Regulations;
  - (i) embryo collection or transfer by a surgical method;
  - (ii) laparoscopic insemination of sheep and goats.
  - (iii) Laparoscopic insemination for the purpose of breed improvement programmes.
9. The intended effect will be to allow sheep and goat breeders to access artificial breeding techniques that lead to sustained genetic improvements in the Welsh sheep and goat stock. The techniques also assist in ensuring the survival of rare breeds of sheep and goats.
10. The amending Regulations insert these procedures into the list of permitted procedures.
11. The amending Regulations substitute a new regulation 5 in respect of who may perform the permitted procedures in the 2007 Regulations, including who may perform wing tagging and web tagging of wild birds (two of the new permitted procedures). Regulation 5 has been amended in order to ensure that it is clear and to ensure that it effectively implements the provision in relation to castration and tail docking of pigs in Council Directive 91/630/EEC laying down minimum standards for the protection of pigs.
12. The amending Regulations insert in Schedule 4 a general prohibition on performing permitted procedures on laying hens that come within the remit of Council Directive 1999/74/EC laying down minimum standards for the protection of laying hens.

## **Implementation**

13. The instrument was laid before the Assembly on the 29 October 2008 and is intended to come into force on 3 December. If the legislation is not implemented in Wales it would damage the sheep and goat breeding industries and impinge on the ability to bring about genetic improvements to the sheep and goat breeding stock.
14. The equivalent legislation came into force in England on 3 June 2008. Scotland is proposing to make similar Regulations in 2009.

## **Consultation**

15. A consultation was undertaken on proposals to amend the Regulations. Full details of this are included in paragraphs 14 to 19 of the Regulatory Impact Assessment.

## **Regulatory Impact Assessment**

16. A partial Regulatory Impact Assessment has been prepared for these Regulations and is included below.

## **Options**

1. Two main options have been identified which are set out below;

Option 1 – Not amend the Mutilations Regulations.

Option 2 – Amend the Regulations to permit procedures to include artificial breeding methods in sheep and goats and; permit wing and web tagging of birds.

## **Benefits**

2. A benefit to commercial sheep producers from genetic improvements of slaughter lambs produced. The country benefits from export earnings from export of sheep, similar to that of cattle (embryos and semen), although the volume of these exports is likely to be small in relation to cattle.
3. Exempting the artificial breeding procedures from the mutilations ban would reinstate procedures used by the industry prior to the implementation of the 2007 Regulations.

4. The identification techniques (wing-tagging and web tagging) are used in breeding programmes for farmed birds and enable commercial producers to benefit from continued genetic improvement. They are also the most effective means of marking wild birds in conservation and reintroduction programmes, and enable conservation agencies to evaluate the success of their programmes. They are also used for research purposes and for identification purposes when sampling for the presence of disease. We are inserting the provision to wing and web tagging of non farmed birds for the purpose of research and farmed birds for identification when sampling for disease.

## **Costs**

5. The sheep breeding sector has a pyramid structure, with elite sheep breeders at the top of the pyramid and commercial sheep flocks at the bottom. The primary role of elite breeders is to create superior breeding stock which can be used in the following tiers. According to industry sources the use of artificial breeding techniques has resulted in annual rates of improvement of up to 4% in the key genetic traits of breeding animals.
6. Wing tagging, web tagging, neck tagging and web notching are extensively used for identification purposes in the farmed bird breeding sector.
7. Birds in the top tiers (pedigree, great-grandparent and grandparent flocks) are tagged. Breed improvement programmes select for both production traits such as feed conversion, breast meat yield, and egg production, and non-production welfare traits such as skeletal development, cardiovascular fitness, and disease resistance.
8. Other marking options for birds are the use of leg rings, elastic bands on wings or legs, or microchips. However, there are considerable problems with all of these alternatives. Both leg rings and elastic bands pose an increased risk of constricting blood supply, which can result in injury, lameness, or death due to necrosis. Leg rings are also frequently outgrown, which means that they must be replaced frequently.
9. If these changes were not implemented breeding programmes would be affected both due to increased welfare culling as a result of increased risk of injury to birds from leg rings, and due to fewer progeny produced in the breeding bird sector as a result of increased stress from increased handling. An adverse impact on breeding programmes, in turn, would result in loss of economic value from genetic improvement in the farmed bird industry. The avoided loss,

therefore, represents the benefit of exempting wing tagging from the mutilation regulations.

10. By following option (ii) and allowing wing and web tagging in wild birds we would be supporting the conservation of wildlife and biodiversity. Bird conservation programmes have used this method of identification of birds; routinely before the 2007 Regulations came into force.

## **Competition Assessment**

12. The regulations will have no new implications in terms of competition; however a failure to carry out the proposal may have consequences in terms of competition with England and Scotland. Not going ahead with the amendments is likely to disadvantage Welsh companies. England has implemented the Regulations with similar amendments and Scotland is proposing to make similar Regulations in 2009. If the amendments were not implemented in Wales it is likely to have a negative consequence for the Welsh sheep breeding industry, it would result in companies moving to England or Scotland, Welsh sheep farmers would be disadvantaged by being unable to take advantage of these techniques for breed improvement programmes.
13. The amendments for wing and web-tagging, by lifting a prohibition on a procedure commonly used in conservation programmes particularly in rural areas, is likely to have a positive impact in these areas. Feedback through conservationists did state that lifting the ban would significantly aid them in monitoring their conservation efforts.

## **Consultation**

14. A public consultation on the proposed amendments to the Regulations for controlling reproduction in sheep and goats and identification procedures in birds was prepared. The consultation ran for a period of six weeks from the 7<sup>th</sup> December to the 8<sup>th</sup> February 2008. A reduced consultation period was used because it was felt that the proposed changes were required and identified by the industries affected.
15. The consultation was sent to stakeholders and specialist organisations within the sheep and goat breeding industry.
17. Of the organisations consulted, six responded, the majority of which commented on the procedures for controlling reproduction and the need to reintroduce the artificial breeding procedures.
18. As a result of the consultation, some minor amendments were made to the Regulations. There were the additions of wing and

web-tagging for some farming purposes and web-tagging. The issues of neck tagging and web tagging emerged during similar consultation by Defra but were not consulted upon. Following veterinary advice it was decided to include the procedures in amending the Regulations.

19. The amendments to regulation 5 and the amendment to Schedule 4 in relation to laying hens were not consulted upon as they do not represent any change to policy or current farming practice.

### Consultation List

Defra  
Scottish Government  
Farmers Union of Wales  
NFU Cymru  
Hybu Cig Cymru  
Innovis Ltd  
CLA  
Sheep Breeding Services  
British Goat Society  
Goat Veterinary Society  
RSPCA  
National Sheep Association  
Royal Welsh Agriculture Association  
Royal College of Veterinary Surgeons  
Welsh Local Government Association  
Countryside Council for Wales

### **Post implementation review**

20. The Animal Health Agency, Local Authorities and the Rural Inspectorate for Wales inspect farm animals and have a responsibility to enforce and monitor compliance with the Animal Welfare Act 2006 and subsequently these amendment Regulations.

### **Summary**

21. Amending the Regulations to lift the ban on the listed procedures is important because these techniques facilitate breed improvements in sheep flocks of Wales. Based on figures received from major breeding companies in Wales it is believed that in 2006 approximately 9,500 sheep on holdings in Wales were inseminating using laparoscopic technique or were subject to an improvement programme.
22. Similarly allowing wing, neck and web tagging and web notching procedures for farm and wild birds to be exempt from

the mutilations Regulations would allow the procedures to be used in aid of identifying both farm and wild birds for breed improvement programmes and conservation purposes respectfully.