

Distribution
Minister
Minister's Advisor
Minister's Office



17 March 2016

Document Number: Sub16-0006

Animal Welfare Regulations – Release of Public Consultation Documents

Purpose:

This briefing provides you with a Cabinet paper and consultation documents for submission to the Cabinet Economic Growth and Infrastructure Committee by 23 March 2016.

Minister	Action Required:	Minister's Deadline
Minister for Primary Industries	Agree to provide feedback to officials on the attached Cabinet and public consultation documents or Agree to take the attached Cabinet and public consultation documents to the Cabinet Economic Growth and Infrastructure Committee meeting on 30 March 2016.	By 5 p.m. 21 March 2016. Due to Cabinet Office by 10:00 a.m. 23 March 2016, for the EGI meeting on 30 March 2016.
CC Associate Minister for Primary Industries		

Comments:

Officials will meet with you on Monday, 21 March to discuss this briefing and the attached Cabinet paper and consultation documents.

Contact for telephone discussion (if required)

	Name	Position	Work	After Hours
Responsible Manager	[REDACTED]	Manager Regulatory Reform and Animal Welfare Policy	[REDACTED]	[REDACTED]
Principal Author	[REDACTED]	Senior Policy Analyst	[REDACTED]	

Key Messages

1. The suite of regulatory proposals developed following passage of the Animal Welfare Amendment Act (No 2) 2015 (the Amendment Act) in May 2015 are now ready for public consultation.
2. The proposals cover:
 - live animal exports;
 - care of and conduct towards animals (including a number of proposals relating specifically to bobby calves); and
 - surgical and painful procedures.
3. Cabinet approval is required prior to public consultation. A Cabinet paper and two public consultation documents are attached for your review.
4. On the basis of early stakeholder engagement, the Ministry for Primary Industries (MPI) expects that most of the proposals will not be contentious.
5. However, some stakeholders may raise concerns about a limited number of the proposals, these include:
 - some proposals relating to bobby calves;
 - mandatory standards around the use of pain relief;
 - restricting docking dogs' tails to therapeutic purposes only; and
 - standards relating to farrowing crates.
6. This briefing provides further background on those proposals.
7. You are required to formally consult with the National Animal Welfare Advisory Committee (NAWAC) prior to recommending the making of the regulations. A letter is attached for you to do so.
8. Parliamentary Counsel Office (PCO) has provided comment on the timelines proposed in the Cabinet paper and advised these may be subject to other Government legislation priorities.
9. Officials will meet with you on Monday, 21 March to discuss this briefing and the attached consultation documents and Cabinet paper.

Recommendations

10. MPI recommends that you:

a) **Note** the contents of this briefing.

Noted

b) **Note** that officials will meet with you on Monday 21 March to discuss this briefing and the attached Cabinet paper and two public consultation documents.

Noted

c) **Agree** to provide feedback to officials on the attached Cabinet paper and two public consultation documents on Monday 21 March 2016.

Agreed / Not Agreed

OR

d) **Agree** to sign and submit the attached Cabinet paper and two public consultation documents to the Cabinet Office by 10:00am on Thursday 23 March, for consideration by the Cabinet Economic Growth and Infrastructure Committee on Wednesday 30 March 2016.

Agreed / Not Agreed

e) **Agree** to sign the attached letter to NAWAC seeking its feedback on the proposed Care and Conduct and Surgical and Painful Procedures regulations, once Cabinet has approved release of the documents for public consultation.

Agreed / Not Agreed

Julie Collins
Acting Deputy Director-General
Policy and Trade
for the Director-General

Hon Nathan Guy
Minister for Primary Industries

/ / 2016

Background

11. The suite of regulatory proposals developed following passage of the Amendment Act in May 2015 are now ready for public consultation. The proposals cover:
 - live animal exports;
 - care of and conduct towards animals (including a number of proposals relating specifically to bobby calves); and
 - surgical and painful procedures.
12. Two separate consultation documents have been developed. These are:
 - Proposed regulations and guidance material for the transport of live animals from New Zealand; and
 - Proposed Animal Welfare Regulations (Care & Conduct and Surgical & Painful Procedures).
13. Separating the documents makes it clear that consultation in relation to live animal exports relates predominantly to timing, and that substantive matters of policy in relation to live animal exports are not going to be re-litigated at this time.
14. Cabinet approval is recommended before the documents can be released for public consultation. A Cabinet paper is attached for your review. The Cabinet paper sets out the context in which the proposals have been developed including why regulations are needed, the process by which they were developed, and who has contributed to their development so far.
15. The Cabinet paper notes areas where there may be resistance to some of the proposals, and also identifies other animal welfare matters that will be in the public domain over the rest of the 2016 calendar year. It advises that MPI is developing an overarching communications strategy so that stakeholder and media interest is well managed throughout the public consultation process and also through the remainder of the year.
16. This briefing:
 - sets out some additional information to supplement the Cabinet paper in relation to those proposals that may be contested;
 - emphasises that the process of consultation is about information gathering, and that no firm decisions have been made yet;
 - describes the communications strategy that MPI is developing to assist with managing key messages and questions and answers during the consultation process;
 - notes that in addition to public consultation, you are required to consult NAWAC on regulations related to the care and conduct of animals and surgical and painful procedures on animals;
 - notes that PCO has provided early comment on the proposed timelines in the Cabinet paper; and
 - details next steps in terms of what you are required to do before the Cabinet paper is discussed on 30 March 2016.

Live animal exports – guidance material and regulatory proposals

17. The proposals relating to live animal exports are relatively simple. They primarily involve bringing sections of the amended Act into effect, and creating a new regulatory offence for failure to comply with the requirements of the conditional prohibition on the export of live animals for slaughter.
18. The consultation document for live animal exports also contains proposed guidance material for the export of sheep by sea, horses by sea, and horses by air. This provides information for exporters about how to meet requirements for exporting live animals. The guidance material is intended to complement the new regulations.
19. Guidance material of this kind is not normally approved by Cabinet. However, in this case MPI intends to consult on the proposed guidance material at the same time as the proposed regulations for live animal exports for efficient stakeholder engagement.
20. Guidance material has already been issued for the transport of cattle by sea.

Care and conduct and surgical and painful procedures - proposals that may be contested

21. Early stakeholder engagement during development of the proposals relating to care of and conduct towards animals and surgical and painful procedures indicates that many stakeholders are supportive of the policy behind most of the proposals, and are keen to see this work progressed.
22. However, there are a few proposals where this may not be the case. These relate to:
 - some of the proposals around the management of young calves (primarily bobby calves);
 - new mandatory requirements around the use of pain relief and veterinary involvement in some surgical and painful procedures;
 - the proposal to restrict docking dogs' tails to therapeutic reasons only; and
 - the proposal to regulate the provision of manipulable nesting material for farrowing sows.

Proposals relating to bobby calves

23. Given the current high level of media interest in bobby calves these proposals are likely to be seen by some stakeholders as going too far and by others as not going far enough. MPI held two workshops in early February, with industry groups and animal advocacy groups. The proposals reflect a significant degree of consensus between the two groups as to where minimum standards relating to bobby calves should be set. However, the following issues may be contested.

Requirements relating to bobby calves are proposed to relate to all young calves

24. [REDACTED] have indicated they do not understand why the proposals should relate to all young calves (defined in these proposals as all young calves under the age of 14 days that have been separated from their mothers), and not just to young calves in the dairy industry that are surplus to requirements.
25. There is no clear animal welfare reason for differentiating between calves on the basis of their eventual purpose. Dairy NZ and the New Zealand Veterinary Association have indicated that they would be strongly opposed to doing so. The consultation process will provide stakeholders with an opportunity to make submissions on the impact of the regulatory proposals on both orphan beef calves and on dairy calves that are raised for the beef industry.

Proposal to set a maximum of 24 hours between last feed and slaughter

26. The proposal to set a maximum period of 24 hours between last feed and slaughter is likely to require business process change at slaughter-plants because it will increase the probability that slaughter-plants will either:
 - have to feed calves after their arrival at plant, and then hold them for a period prior to slaughter; or
 - ensure, through their supply agreements with farmers and transporters, that calves are delivered and able to be slaughtered within the maximum period allowed.
27. The intention of the proposal is that slaughter-plants should drive changes through their supply agreements, and this was widely supported at the workshops. The proposal reflects the way in which the dairy industry operates already, with dairy companies exacting quite stringent requirements on their suppliers through their contracts of supply. It is possible that some meat processing plants will resist the change during consultation because it places a significant portion of the onus for system wide change on them, when as an industry they tend to be more fragmented than their dairy counterparts.

Proposal to require suitable loading facilities

28. Currently many farms lack ramps or raised pens for loading bobby calves onto trucks. This means that in many cases these calves have to be lifted from the ground onto trucks, increasing the risk of mishandling.
29. In order to address the root cause of mishandling problems, we are proposing that suitable loading facilities should be provided. This will place an additional cost on either farmers or transporters. While there was wide consensus at the workshops that suitable loading facilities are required, there was also some debate amongst these groups as to who should bear the cost. This debate may be continued in the public domain once the proposals are made public.

Mandatory standards around the use of pain relief

30. The Painful Husbandry Procedures Code of Welfare (PHP) was issued in 2005. Science, good practice, and the regulatory environment have now moved on. Research shows that pain relief can be effective during routine husbandry procedures. In addition, the means to provide pain relief are now available to farmers and animal owners. For example, through Veterinary Operating Instructions (VOI) a veterinarian can provide a non-veterinarian with detailed instructions on when and how the pain relief (which is a restricted veterinary medicine) can be used. Under VOI there is still ongoing veterinary involvement but a veterinarian does not need to be present each time the procedure is performed.
31. Given that pain relief is effective and now widely available, some of the proposed regulations relating to the use of pain relief exceed requirements in the current minimum standards. This may be of concern to some stakeholders who may incur additional costs.

Requirements of pain relief for disbudding and dehorning

32. [REDACTED] has already indicated that it will oppose mandatory requirements relating to the use of pain relief in disbudding¹ and dehorning cattle. It is likely to do so on the grounds that farmers, who are already under financial strain, will incur additional costs, and also that the proposal is impractical in extensive beef operations, where farmers are not necessarily on site at the time disbudding should occur.
33. Dairy NZ has established a cross-industry working group ([REDACTED] [REDACTED]) to investigate issues related to disbudding, including the practicality and economic impact of using pain relief for this procedure.
34. We expect that outcomes of the Dairy NZ's working group will be finalised in time to contribute formally during the public consultation period.

Restricting docking dogs' tails to therapeutic purposes

35. A small but very vocal group of stakeholders will resist the proposal to prohibit the docking of dogs' tails for non-therapeutic reasons.
36. Dogs' tails play a role in regulating balance and are also used as a means of communication. The main arguments put forward by those supporting tail docking for non-therapeutic purposes are that docking:
 - is not painful for very young dogs;
 - prevents tail injuries; and
 - is part of the culture of many purebred breeds.
37. The science on whether this is a painful procedure is complex and both sides of the debate can cite research that supports their respective views.

¹ Disbudding is the destruction, by any method, of the free-floating immature horn issue (horn buds growing from the skin) from which the horns of an animal subsequently develop.

38. In terms of injury prevention, recent research suggests that tail injuries are uncommon and only represent a small percentage of why dogs are presented to veterinary clinics.
39. Internationally, tail docking is either banned or restricted in over 30 countries worldwide. Australia, Scotland, Switzerland and parts of Canada are among the jurisdictions that have banned this practice outright. Countries such as England, Germany and Wales have restricted the practice to certain working dogs. In these countries tail docking can only be performed by a veterinarian.

Standards relating to farrowing crates

40. NAWAC has recently written to you about the use of farrowing crates in the pork industry. MPI's advice to you is set out separately in B16-0186.
41. NAWAC identified three areas of concern about the use of farrowing crates. The proposals in the consultation document relating to care and conduct include two of these:
 - setting minimum standards around the size of crates into regulation; and
 - requiring sows to be provided with manipulable material prior to farrowing in order to enable them to meet their very strong nesting instincts.
42. The pork industry may resist the proposal relating to manipulable nesting material. An existing minimum standard in the Pigs Code of Welfare states that material that can be manipulated must be provided for farrowing sows in any farrowing system constructed after 3 December 2010. NAWAC found substantial industry non-compliance with this minimum standard. Some pig farmers argued that loose materials provided for sows could clog up drainage systems, compromise hygiene when they become dirty, and increase costs.
43. We included the proposal for consultation because substantial industry non-compliance is an indication that non-regulatory options are not working, however industry may raise the cost of compliance as an argument against regulation.
44. Industry may request a period of transition or delayed commencement of these regulations. The consultation document asks for specific feedback on this issue.

Managing the public debate – a communications strategy is being developed

45. This consultation covers a wide variety of proposals that affect different stakeholders. No decisions have been made and as a result of the consultation process a number of proposals may change or may not be carried forward. It is therefore important that people engage with the process.
46. While some of the proposals may be contested, the consultation process will enable submitters to have their say and to influence the final outcome. The consultation documents ask submitters for their views and any information that they can provide to ensure that the regulations made are fit for purpose.

47. MPI is developing a communications strategy that will sit across the regulatory proposals and all of the other animal welfare matters in the public domain. The strategy will incorporate a number of key messages and questions and answers relating to all of these matters.
48. MPI will be running a number of public meetings towards the end of the consultation period. These will be held in Auckland, Wellington, Christchurch, Hamilton, Palmerston North and Invercargill.
49. You will be advised about the progress of consultation on a weekly basis through your weekly report, or more immediately should any particular matters of concern arise during this time.

Parliamentary Counsel Office

50. We are currently expecting that regulations will be made by the end of 2016. PCO has provided early feedback on the Cabinet paper in relation to the proposed timeframes. Its feedback is that the timelines are tight from a drafting perspective, and could be impacted by other Government drafting priorities. PCO note that September/October is a typically busy period in the Government legislation programme.
51. Our first priority will be to finalise for Ministers' approval any proposals for young calves that are suitable for implementation in late July/early August, so that drafting instructions for PCO can be issued as soon as possible. The remainder of the regulatory proposals will be developed for consideration by EGI in late August. If possible we will deliver these earlier, but our timelines will be determined by the nature and complexity of the submissions received during consultation.
52. Once submissions close and have been analysed we will provide you with an update on matters raised.

Next steps

53. We will be meeting with you on 21 March to discuss the proposals and any further questions you may have in relation to the consultation documents or the Cabinet paper. Following this meeting any further adjustments required will be made to both documents and these will be returned to you by 22 March. All documents are due to Cabinet Office by 10:00am on 23 March 2016, for the EGI meeting on 30 March 2016.
54. We will also prepare talking points to assist you in presenting these documents to EGI and these will be provided to you by 29 March 2016.
55. The consultation package will need to be announced and published almost immediately following the Cabinet meeting on 4 April. Consultation will be open for a period of 5 weeks. We will work with your office to identify appropriate opportunities for you to announce the consultation once approved by Cabinet, and we will develop key messages and talking points to assist you.



Office of Hon Nathan Guy

MP for Otaki

Minister for Primary Industries

Minister for Racing

Dr John Hellström
Chairman
National Animal Welfare Advisory Committee
C/- Ministry for Primary Industries
P O Box 2526
WELLINGTON 6140

Dear Dr Hellström

I am writing to invite the National Animal Welfare Advisory Committee's (NAWAC) submissions on a set of regulatory proposals under the Animal Welfare Act 1999 (the Act).

The Ministry for Primary Industries are proposing regulations for the Care and Conduct towards animals and Surgical and Painful Procedures. I am required to consult with NAWAC before recommending the making of regulations, and I intend this letter to meet my consultation requirements under the Act.

Proposals are due to be publically consulted on in April 2016. My officials will be in contact with you to arrange an appropriate time to meet in late April to discuss the proposals.

Thank you and I look forward to the committee's submissions.

Yours sincerely

Hon Nathan Guy
Minister for Primary Industries