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Ministry for Primary Industries
Manatū Ahu Matua



26 May 2016

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Proposed Animal Welfare Regulations – Young Calves and Live Animal Exports

Purpose:

This paper provides background information and advice to Ministers so that they may make decisions about taking forward proposals to make regulations covering the welfare of young calves.

Minister	Action Required:	Ministers' Deadline
Minister for Primary Industries	<p>Note and agree the recommendations in this briefing, in particular:</p> <ul style="list-style-type: none"> • Agree to consider the set of proposals for regulations covering the welfare of young calves. • Agree to approve the policy intention of each proposal so that the Parliamentary Counsel Office may be instructed to prepare draft regulations. • Agree that the draft regulations be submitted to Cabinet for consideration and final approval on 25 July 2016 so that regulations may be made in time to come into force by 1 August 2016, in time for the bulk of the 2016 spring calving season. • Note that the Minister for Primary Industries also intends to ask for Cabinet approval of draft regulations relating to live animal exports on 25 July 2016. • Agree to forward to the Minister of Justice and the Minister for Regulatory Reform. 	1 June 2016.
CC: Associate Minister for Primary Industries		

MPI officials attending the meeting on 1 June 2015

- Julie Collins, Director, Biosecurity and Animal Welfare
- s 9(2)(a) Regulatory Reform and Animal Welfare
- s 9(2)(a), Regulatory Reform and Animal Welfare

Contact for telephone discussion (if required)

	Name	Position	Work	After Hours
Responsible Manager	s 9(2)(a)	Manager Regulatory Reform and Animal Welfare	s 9(2)(a)	s 9(2)(a)
Principal Author	s 9(2)(a)	Senior Policy Advisor	s 9(2)(a)	

Key Messages

1. On 4 April 2016, Cabinet gave approval for the Ministry for Primary Industries (MPI) to consult on 91 proposals for animal welfare regulations spanning a wide range of species and situations, covering care of and conduct towards animals, surgical and painful procedures and live animal exports (see Sub16-006).
2. Eight proposals were specifically designed to address the welfare of young calves. If regulations are to be made by 1 August 2016 (in time for the bulk of the 2016 spring calving season), these proposals need to be taken forward on a “fast-track” basis. Cabinet agreed to delegate authority to a small group of Ministers to facilitate this accelerated process.
3. This group comprises the Minister for Primary Industries, the Associate Minister for Primary Industries, the Minister of Justice and the Minister for Regulatory Reform. Together they have been authorised to consider which of the proposals should be taken forward to the next stage of development, which will be the preparation of draft regulations by the Parliamentary Counsel Office (PCO). A meeting of this Ministerial Group has been scheduled for Wednesday 1 June 2016.
4. The proposed young calf regulations have been designed primarily to cover activity relating to bobby calves in the dairy industry, including the transportation of those calves for sale or slaughter and the treatment of the calves at those destinations. A small number of beef calves may also be covered by these regulations. This is intentional, as beef calves that are under 14 days of age and which have been separated from their mothers are subject to the same vulnerabilities as bobby calves.
5. The proposals relating to young calves have been subject to five weeks of public consultation, including six public meetings in Auckland, Wellington, Christchurch, Hamilton, Palmerston North and Invercargill. They have also been extensively workshopped with industry and advocacy groups, both prior to and during public consultation.
6. In addition, MPI has held a number of bi-lateral discussions with industry group representatives of those most likely to be affected by the new regulations.
7. The proposals have been widely supported by all groups throughout the consultation process, with some limited exceptions. Some affected stakeholders have asked for delayed commencement on three of the proposals to give their members time to comply.
8. This paper sets out the proposed rules and penalties that the Minister for Primary Industries would now like to progress, addresses key aspects of the regulatory impact of these rules, and seeks approval for the Minister for Primary Industries to issue drafting instructions to the PCO.
9. This paper also notes that we will take the opportunity to progress drafting regulations relating to live animal exports in time for these to be put to Cabinet for approval on 25 July alongside the draft regulations for young calves.

Recommendations

10. MPI recommends that the Ministerial Group for Young Calf Regulations:

- a) **Note** the scope of the regulatory proposals that have been consulted on in relation to the welfare of young calves.

Noted

- b) **Note** that there will be compliance costs for farmers, transporters and meat processors associated with the proposed regulations. These costs are balanced against the improvements to young calf welfare and the benefits to be gained by further safeguarding New Zealand's trade reputation.

Noted

- c) **Note** that a formal Regulatory Impact Statement setting out the costs, benefits and impacts of these proposals in greater depth will be provided for consideration by Cabinet on 25 July 2016.

Noted

- d) **Agree** to the policy in relation to each of the following proposals:

- 1) Requiring that at least four full days must have elapsed from when a young calf is separated from its mother before transportation for sale or slaughter. That calf must also display certain physical characteristics, including the ability to stand and walk and freedom from disease.
- 2) Setting a maximum duration of 12 hours journey time for young calves that are being transported for sale or slaughter.
- 3) Prohibiting the killing of any calves by blunt force trauma except in emergency circumstances.
- 4) Prohibiting the transportation of young calves by sea across the Cook Strait.
- 5) Requiring loading and unloading facilities be provided when young calves are transported for sale or slaughter.
- 6) Requiring that suitable shelter be provided for young calves before and during transportation and at points of sale or slaughter.
- 7) Limiting the maximum time a young calf may be off feed to 24 hours (down from 30 hours) and requiring that, at that point, the calf is either slaughtered or fed again.

Agreed / Not Agreed

- e) **Agree** that, where required, the regulations will be drafted to place a requirement on the defendant to demonstrate they have systems in place to enable their compliance or to keep records which demonstrate their compliance.

Agreed / Not Agreed

- f) **Agree** to invite the Minister for Primary Industries to issue instructions to the Parliamentary Counsel Office (PCO) to prepare draft regulations to give effect to each of the proposals that have been agreed to.

Agreed / Not Agreed

- g) **Agree** to invite the Minister for Primary Industries to also instruct the PCO to amend the codes of welfare, as necessary, as a consequence of any provisions made in the regulations.

Agreed / Not Agreed

- h) **Agree** to the following proposals coming into force by 1 August 2016:

- 1) Requiring that at least four full days must have elapsed from when a young calf is separated from its mother before transportation for sale or slaughter. That calf must also display certain physical characteristics, including the ability to stand and walk and freedom from disease.
- 2) Setting a maximum duration of 12 hours journey time for young calves that are being transported for sale or slaughter.
- 3) Prohibiting the killing of any calves by blunt force trauma except in emergency circumstances.
- 4) Prohibiting the transportation of young calves by sea across the Cook Strait.

Agreed / Not Agreed

- i) **Agree** to delay commencement of the following proposals:

5. Requiring loading and unloading facilities be provided when young calves are transported for sale or slaughter (delay by 12 months).
6. Requiring that suitable shelter be provided for young calves before and during transportation and at points of sale or slaughter (delay by 12 months).
7. Limiting the maximum time a young calf may be off feed to 24 hours (down from 30) and requiring that, at that point, the calf is either slaughtered or fed again (delay by six months).

Agreed / Not Agreed

- j) **Note** that the Minister for Primary Industries intends to submit the regulations direct to Cabinet for approval on 25 July 2016.

Noted

- k) **Note** that the Minister for Primary Industries intends that the submission to Cabinet will set out the precise timetable for those regulations which will have delayed commencement.

Noted

- l) **Note** that the Minister for Primary Industries intends to ask Cabinet for approval to waive the 28 day rule in order to bring the majority of the proposals into effect by 1 August 2016.

Noted

- m) **Note** that the Ministry for Primary Industries will continue to work with leading industry groups to ensure that appropriate steps are taken to help the farmers, transporters meat processors and others that are affected by these regulations prepare accordingly.

Noted

- n) **Note** that the Minister for Primary Industries also intends to ask for Cabinet approval of draft regulations relating to live animal exports.

Noted

Karen Adair
Acting Deputy Director-General
Policy and Trade
for the Director-General

Hon Nathan Guy
Minister for Primary Industries

/ / 2016

Background

11. The Animal Welfare Amendment Act (No 2) 2015 made changes to the Animal Welfare Act 1999 (the Act). One of the key changes was the creation of a power to make regulations. The Act already allowed prosecutions to be taken against persons who commit offences that cause severe pain or distress to animals. Regulations will enable enforcement action such as the use of infringement fees or regulatory prosecutions to be used in response to lower-level offending which still causes, or risks causing, a significant level of pain or distress to animals.
12. On 4th April 2016, Cabinet gave approval for MPI to consult on 91 proposals for animal welfare regulations spanning a wide range of species and situations, covering care of and conduct towards animals, surgical and painful procedures and live animal exports (see Sub16-006).
13. When Cabinet approved release of the Animal Welfare Regulations consultation documents, the Minister for Primary Industries highlighted his intention to take forward a number of regulations for young calves on a swifter, “fast-track” timetable than the rest of the proposals. This will allow the regulations to come into force before the peak of the bobby calf season this spring.
14. The full consultation on 91 proposals for animal welfare regulations included eight proposals specifically designed to address the welfare of young calves. If regulations relating to young calves are to be in place by 1 August 2016 (in time for the bulk of the spring calving season), Ministerial approval to commence drafting those regulations is now required.
15. Given the limited availability of Cabinet Committees over this period of time, Cabinet agreed to delegate to a small group of Ministers the authority to approve proposals relating specifically to young calves and to authorise the Minister for Primary Industries to direct the PCO to commence drafting the regulations (see Sub16-006).
16. This group comprises the Minister for Primary Industries, the Associate Minister for Primary Industries, the Minister of Justice, and the Minister for Regulatory Reform.
17. The draft regulations will be subject to a further round of cross-government consultation and will be reviewed as part of a formal regulatory impact assessment.
18. The Minister for Primary Industries will also request that the National Animal Welfare Advisory Committee (NAWAC) provides its views on the draft regulations. NAWAC is the statutory body charged with providing independent advice to the Minister for Primary Industries on all matters relating to animal welfare.
19. Approval of the final set of regulations will be sought from Cabinet at its meeting on 25 July. A formal Regulatory Impact Statement will be available for Cabinet’s consideration at this point.

20. It is the Minister for Primary Industries' intention that these regulations will be ready to apply to the bulk of the 2016 calving season, which means that they will need to come into force at the beginning of August. The Minister for Primary Industries therefore intends to ask that Cabinet agree to waive the 28-day rule.
21. This paper sets out the proposed rules and penalties that the Minister for Primary Industries would now like to progress, addresses key aspects of the regulatory impact of these rules and seeks approval for the Minister for Primary Industries to issue drafting instructions to the PCO.

Issues relating to young calves ("bobby" calves) and the response to date

22. The welfare of bobby calves has had a particularly high public profile since Farmwatch and SAFE released a video in November 2015 of calves being seriously mistreated. Two sets of charges have been laid in relation to some of the activity in that footage and further investigations are continuing.
23. MPI has been working with major stakeholder organisations such as Federated Farmers, The Dairy Companies Association of New Zealand, The New Zealand Veterinary Association, Dairy NZ, the Road Transport Forum and the Meat Industry Association over the past several years to help improve education about what good practice is in relation to bobby calves, and to help people put this good practice into action. This work has made a significant contribution to improving the overall welfare of these calves.
24. An important indicator is that the proportion of bobby calves which died prematurely (in transit or in lairage¹) has declined steadily from 0.68 percent in 2008 to 0.25 percent in 2015 despite the overall number of calves presented for processing increasing over that period. Nonetheless, 0.25 percent represents a significant number of animals. In 2015, approximately 2.17 million bobby calves were presented for processing, of which 5,390 were recorded as having died prematurely or were condemned in the period from pick up at the farm to the period immediately prior to slaughter.
25. In November 2015, MPI convened the Bobby Calf Action Group, which coordinates action across the bobby calf supply chain. The group does this by identifying current science and best practice, education, training and communication needs across the supply chain, and ensuring that research underway fits with the needs of the Bobby Calf Action Plan. By April 2016, 14 actions had been identified drawing on the mapping of the bobby calf supply chain, interviews with farmers, and input from industry organisations. These cover education and communication needs, facility and data requirements through farmers and transporters to processors. They will be implemented in time for the spring calving season 2016.

¹ Lairage is a place where cattle or sheep may be rested on the way to market or slaughter.

26. Although good progress is being made through better co-ordination and voluntary industry action, the Minister for Primary Industries and MPI believe there is a strong argument in favour of introducing a set of regulations focussed specifically on the welfare of young calves.
27. The regulatory proposals that are covered in this paper have been designed to ensure that the good standards of practice that are common across most of the industry become statutory requirements for all of the industry.
28. These regulations will make several of the minimum standards in the current Codes of Welfare more enforceable and therefore more effective. Some of the regulations will introduce requirements that go further than the current codes but which nonetheless represent standards that are already achieved by many practitioners and which are recognised as good practice.

Proposals for young calf regulations

29. The full consultation on 91 proposals for animal welfare regulations included eight proposals specifically designed to address the welfare of young calves. These were:
 - 1) Before transportation for sale or slaughter, at least four full days must have elapsed since a young calf was separated from its mother.
 - 2) That calf must also display certain physical characteristics, including the ability to stand and walk and freedom from disease.
 - 3) Setting a maximum duration of eight hours journey time for young calves that are being transported from farm to slaughter premises.
 - 4) Prohibition of killing all calves by blunt force trauma except in emergency circumstances.
 - 5) Prohibition of transporting young calves by sea across the Cook Strait.
 - 6) A requirement that loading and unloading facilities be provided to enable young calves to walk onto and off transportation by their own action.
 - 7) A requirement that suitable shelter be provided for young calves before and during transportation and at points of sale or slaughter.
 - 8) Limiting the maximum time a young calf may be off feed to 24 hours (down from 30 hours) and requiring that, at that point, the calf is either slaughtered or fed again.
30. It is intended that the new regulations will sit alongside the Codes of Welfare. It will be important to avoid confusion about the relationship between the new regulations and any of the minimum standards in existing codes. The Minister for Primary Industries will therefore be seeking to amend the Codes of Welfare where it is needed to keep them in line with any provisions made in the new regulations. This will help to ensure clarity across the regulatory system as a whole.

31. The appendix to this paper contains further detail about each of these proposals. Note that the proposals relating to minimum age and physical characteristics required before a calf can be transported have now been combined and so the appendix addresses seven proposals overall; and the proposal relating to a maximum journey time has been increased to 12 hours which reflects the current Code of Welfare.
32. The appendix also provides detail about the approach MPI is seeking to take in relation to the definition of “young calves.”

Regulatory impact of the proposals

33. In assessing the impact of these proposals, they can be grouped into three different categories. These are:
 - four proposals that reflect current practice and will have minimal impacts on regulated parties already compliant with current obligations;
 - two proposals that are relatively easy to implement but may incur additional costs in infrastructure for which a delayed commencement period is recommended; and
 - one proposal that will require significant business process change for meat processing plants, for which a delayed commencement date is recommended.
34. Progressing all of these regulations on the same timeframe will send a strong signal to industry sectors and to the public about the importance of young calves and the need to have comprehensive rules to protect their welfare, even although a delayed commencement date is recommended for three of them.

Proposals that reflect current practice

35. All of the proposals in this group reflect minimum standards and associated guidance in relevant Codes of Welfare or other common good practice across the industry. Compliance would not involve any change for regulated parties who are already meeting these standards. The principal change is that Animal Welfare Inspectors will now be able to enforce these standards for those who are non-compliant.
36. These proposals are:
 - 1) Before transportation for sale or slaughter, at least four full days must have elapsed since a young calf was separated from its mother. That calf must also display certain physical characteristics, including the ability to stand and walk and freedom from disease.
 - 2) Setting a maximum duration of 12 hours journey time for young calves that are being transported for sale or slaughter.
 - 3) Prohibition of killing all calves by blunt force trauma except in emergency circumstances.
 - 4) Prohibition of transporting young calves by sea across the Cook Strait.

37. All of these proposals have been broadly supported during consultation. There are three exceptions to this:

Advocacy and public opposition to four day minimum age prior to transport

38. All advocacy groups and a number of public submissions oppose the four-day minimum age, which they argue is too young. In Australia the minimum age is five days and in the European Union the minimum age prior to transport varies from 10 to 14 days.
39. The situation in New Zealand is not analogous to that in the European Union, where a strong veal market ensures that there is some economic benefit to farmers in keeping their calves for the additional days. In New Zealand any increase in the minimum age would place significant additional costs on farmers in feeding and caring for their calves, without any opportunity to balance this against demand for the final product. There would also be a risk that the increased number of calves that were on farm at any given time would place pressure on the farm's capacity to house them all appropriately.
40. Four days is the current minimum age recommended in the relevant Code of Welfare. Any increase in this, especially at a time when dairy farmers are already under considerable financial pressure, could cause unintended welfare problems either through farmers not feeding their calves sufficiently during the extra days, or through increased on-farm euthanasia.

Liability of truck drivers who load sub-standard calves

41. The Road Transport Forum (RTF), representing trucking companies, has flagged that while they do support making farmers liable for presenting sub-standard calves for transport; they do not support a parallel obligation on truck drivers not to load calves that are sub-standard. MPI is continuing to work through this issue and it will be resolved prior to final drafting of the regulations through bi-lateral dialogue with the RTF.

Blunt force trauma

42. NAWAC and the Royal New Zealand Society for the Prevention of Cruelty to Animals (RNZSPCA) have opposed the prohibition on blunt force trauma on the grounds that, done properly, it is an effective and humane way of euthanasing calves. NAWAC has submitted that the real welfare problems arise when calves are not rendered immediately insensible, by whatever means, and that a focus on blunt force trauma per se does not properly address the wider issue.
43. A number of other submitters (Dairy NZ, Federated Farmers, Fonterra, and NZVA) support the proposal, subject to including a proviso allowing for use of blunt force trauma in an emergency.

44. The use of blunt force trauma to kill calves is declining in New Zealand, particularly following the 2014 revision to the Dairy Cattle Code of Welfare which now states that this practice should not be used. A recent survey by MPI of slink skin operations found that the incidence of calves showing blunt force trauma to the head had decreased from 11 percent in 2013 to 2 percent in 2015.
45. While it is possible to kill a calf quickly and efficiently without causing unnecessary pain and distress using blunt force trauma, MPI considers that use of a captive bolt gun or firearm is more reliable in achieving a rapid, humane death. MPI also notes that the use of blunt force trauma presents a significant risk to our reputation as a responsible producer of animals and animal products.
46. The proposal has been amended post consultation to include an exemption to allow the use of blunt force trauma in emergency situations where a calf is in severe pain or distress and no reasonable alternative to the use of blunt force trauma is available.

Bringing the proposals into force on 1 August 2016

47. All four of the proposals listed above could be brought into effect swiftly after being made without causing significant disruption to the farming, transportation and meat processing industries. MPI does not see any risks in terms of the impact on regulated parties of bringing these provisions into effect immediately on 1 August 2016.

Proposals that are relatively simple but may incur additional costs

48. There are two proposals that are relatively simple for regulated parties to comply with but which will require some additional investment in infrastructure. The proposals have been widely supported during consultation, although some stakeholders have requested a delayed commencement date to give their members time to comply with the requirements.
49. These proposals are:
 - 5) A requirement that loading and unloading facilities be provided when young calves are transported for sale or slaughter.
 - 6) A requirement that suitable shelter be provided for young calves before and during transportation and at points of sale or slaughter.
50. Beef + Lamb New Zealand has submitted that, in its view, requiring farmers to provide loading facilities is a disproportionate response to the problem of rough handling while loading calves onto trucks. However, all other major stakeholders have endorsed the proposed regulation.
51. Dairy NZ has researched loading facilities and estimates that brand new facilities could cost farmers up to \$2,500. Farmers who have existing equipment will likely face lower costs.

52. Meat processors may need to upgrade any uncovered lairage facilities to meet the requirement that young calves have adequate shelter. Similarly, sale yards may need to upgrade any uncovered pens in which they keep young calves.
53. The cost impacts on farmers, transporters, saleyards and processing plants will be mitigated if the date for these proposals can be delayed for a suitable period. This will allow regulated parties to save capital to invest in the new infrastructure and give them time to explore cost-effective options. It could also provide manufacturers of loading equipment time to develop a standard cost-effective option for use by farmers.
54. Feedback from the RNZSPCA, Dairy NZ and MIA suggest a deferred commencement date of between 6 to 24 months. MPI is continuing to work with affected stakeholders as the regulations are developed to identify the optimal timeframes.
55. MPI will still be able to prosecute the most serious cases of poor animal welfare caused by poor handling or lack of shelter using provisions in the Act itself.

One proposal that will require the meat processing industry to adopt new business practices

56. Proposal no.7 to limit the maximum time a young calf may be off feed to 24 hours (down from 30 hours) and requiring that, at that point, the calf is either slaughtered or fed again, represents a significant shift in current practice for meat processing plants.
57. MIA has submitted that it is sometimes not practical for all plants processing bobby calves to process calves within a 24 hour period of receipt, for example:
 - resource management constraints, in which plants cannot operate beyond certain times; and
 - shift configurations - in the shoulders of the season not all shifts are potentially operating.
58. MIA has also noted that the proposal will require additional processes and monitoring to be put in place. Each farmer will be required to record the time of last feed, which will then need to be recorded by the transporter at time of pick-up with each individual mob having its own 24 hour window depending on the time of last feed. MIA note that while there is potential for this to be handled via commercial arrangements between farmers and processors, commercial agreements are already in place for 2016 and the effect of implementing new regulations mid-season would be extremely problematic.
59. To address the concerns raised by MIA, MPI proposes a delayed commencement of six months which will enable new contracts of supply to be developed prior to autumn calving in 2017.

Nature of offences, associated penalties and defences

Nature of offences – strict liability

60. MPI proposes that all of the offences created by these regulations should be subject to strict liability. This would mean that the prohibited conduct alone is sufficient for an offence to be committed and it would not be necessary for the enforcement agency to prove intent as well.
61. This approach is in keeping with existing provisions in the Act which create strict liability offences for owners that fail to ensure that the behavioural needs of an animal are met, or fail to ensure that an ill or injured animal receives treatment; and for any person that ill-treats an animal.

Penalties

62. The proposed offences are set out in the table below:

Proposed regulation	Proposed offence
1. Requiring that at least four full days must have elapsed from when a young calf is separated from its mother before transportation for sale or slaughter. That calf must also display certain physical characteristics, including the ability to stand and walk and freedom from disease.	\$500 infringement offence. No criminal conviction.
5. Requiring loading and unloading facilities be provided when young calves are transported for sale or slaughter.	
2. Setting a maximum duration of 12 hours journey time for young calves that are being transported for sale or slaughter.	Prosecutable offence in regulation with penalty up to \$5,000 for individuals and \$25,000 for bodies corporate. Criminal convictions may also be applied.
3. Prohibiting the killing of any calves by blunt force trauma except in emergency circumstances.	
4. Prohibiting the transportation of young calves by sea across the Cook Strait.	
6. Requiring that suitable shelter be provided for young calves before and during transportation and at points of sale or slaughter.	
7. Limiting the maximum time a young calf may be off feed to 24 hours (down from 30) and requiring that, at that point, the calf is either slaughtered or fed again.	

63. The Act allows infringement fees to be set up to a maximum of \$1,000 but none have been proposed at this level.
64. The proposals for young calves that cover setting minimum standards regarding fitness for transport standards and the provision of loading/ unloading facilities would create offences subject to infringement fees of \$500.

65. The remaining offences would be subject to prosecution under the new regulations. MPI does not propose to limit the fines that may be applied in these cases to a level below the maximum permitted by the Act, which is \$5,000 for individuals and \$25,000 for bodies corporate.
66. The rationale for not setting lower limits for the regulatory offences is that breach of these requirements, in certain circumstances, risks causing significant harm or distress to individual calves. In some cases, this could also impact upon the welfare of large numbers of animals at the same time.
67. In addition, a number of these proposals impose liabilities that are likely to fall on bodies corporate and the prospect of higher level fines will prove to be a more effective deterrent against offending. There is a risk that smaller fines such as \$500 could, in some cases, simply be seen as the cost of doing business. This is unlikely to be the case if the defendant is at risk of incurring a \$25,000 penalty.
68. There is also significant risk to New Zealand's reputation as a responsible exporter of animals and animal products associated with this offending and it is important that the penalties set are effective.
69. Allowing for fines up to the maximum level would enable the court to respond appropriately to the variable nature of animal welfare offending. It is expected that the court will take into account factors including the level of harm or distress caused to any animals and the number of animals that were affected.
70. In cases involving the most severe levels of offending, prosecution under the provisions in the Act itself (rather than these regulations) will remain an option. Act-level offences may receive fines of up to \$100,000, or up to five years imprisonment, for an individual; or a fine up to \$500,000 for a body corporate. Criminal convictions may be applied as well as other penalties, such as disqualifications or forfeitures, depending on the offence.

Defences

71. Because these regulations would create strict liability offences, MPI proposes that the same defences be made available to defendants as are available for the strict liability offences that are already contained within the Act. These defences, which the defendant would need to prove, are that:
 - the defendant took all reasonable steps to comply with the relevant provision; or
 - the act or omission constituting the offence took place in circumstances of stress or emergency and was necessary for the preservation, protection, or maintenance of human life.
72. For many of these proposed regulations, it will be necessary to include provisions that require the affected persons (farmers, transporters, meat processors etc.) to demonstrate that they have complied with certain specific requirements. For example, farmers would be expected to prove that a calf is at least four full days past separation from its mother before it is presented for transportation.

Enforcement

73. The proposed young calf regulations have been designed primarily to cover activity relating to bobby calves in the dairy industry, including the transportation of those calves for sale or slaughter and the treatment of the calves at those destinations. A small number of beef calves may be covered by these regulations. This is intentional, as beef calves that are under 14 days of age and which have been separated from their mothers are subject to the same vulnerabilities as bobby calves.
74. The significant majority of the calves that are covered by the regulations will come from commercial farms. Compliance with the regulations will therefore primarily be undertaken by animal welfare inspectors employed by MPI. There are a very small number of young calves on lifestyle blocks where enforcement action is more likely to be undertaken by warranted animal welfare inspectors employed by the SPCA. In the latter case, the regulations would be enforced through a centralised mechanism controlled by the RNZSPCA National Inspectorate.

Consultation

75. Section 184(1) of the Act requires that the Minister for Primary Industries must consult those persons that he has reason to believe are likely to be substantially affected by the proposed regulations. To that end, the proposals that are set out in this paper have been developed following extensive consultation.

Stakeholder and public consultation

76. In February 2016, MPI held two workshops focussing specifically on young calf welfare which were attended by industry representatives, veterinarians and animal advocacy groups. Industry groups that attended included:
- Federated Farmers;
 - Dairy Companies of New Zealand;
 - New Zealand Veterinary Association;
 - Dairy New Zealand;
 - The Road Transport Forum;
 - Beef + Lamb New Zealand; and
 - The Meat Industry Association.
77. A number of individual farmers, processors, and transporters also attended.
78. There was a significant degree of consensus at these workshops as to what regulations relating to bobby calves – and all young calves – should seek to cover. The proposals that were presented in the subsequent public consultation reflected the discussions at these workshops.
79. The general public consultation ran from 14 April to 19 May this year and included a set of six public meetings across the country. Two further workshops took place on 5 May (with advocacy groups) and 9 May (with industry groups).

80. MPI officials have also undertaken a range of bilateral discussions with representatives of affected stakeholders, notably with Dairy NZ and MIA, to consider how regulations would work in practice and to better understand their potential impact on farmers and processors.

Cross-government consultation

81. Standard cross-agency consultation was conducted prior to publishing the full consultation document. The set of young calf proposals was given initial consideration at that point.
82. In addition, MPI officials have carried out bi-lateral discussions with counterparts at the Ministry of Justice regarding the proposed offences for these regulations, and the Treasury regarding the approach to carrying out a regulatory impact assessment.
83. Full formal cross-agency consultation will be undertaken again once the specific proposed regulations have been drafted by PCO. This will help to inform Cabinet's final decisions on which regulations to approve.

Consultation with the National Animal Welfare Advisory Committee (NAWAC)

84. MPI worked closely with NAWAC, the Veterinary Council of New Zealand and the RNZSPCA during the development of the proposals that were presented for public consultation. The Chair of NAWAC, Dr John Hellström, reviewed the consultation document before it was approved for release by Cabinet. In addition, NAWAC members took part in all of the stakeholder workshops MPI ran both prior to and during formal public consultation.
85. NAWAC also submitted a formal response to the consultation. In this, NAWAC recorded its broad support for the proposals, subject to a small number of specific comments. With specific regard to the young calf proposals, NAWAC stated that, in its opinion, the prohibition on blunt force trauma is an ethical issue, not a welfare one. See paragraphs 42-46 of this briefing paper for further discussion of blunt force trauma.
86. The Minister for Primary Industries is required to formally consult with NAWAC again once the regulations have been drafted. The Minister for Primary Industries will include any relevant feedback from NAWAC in the paper to Cabinet seeking its approval of the final set of young calf regulations.

Next Steps

87. The table below sets out next steps and timelines once the Ministerial group has approved the policy proposals in this briefing:

Drafting instructions issued to PCO	3 June 2016
Cross-agency consultation and formal consultation with NAWAC	20 to 24 June 2016
Final drafting of regulations Development of associated Cabinet paper and Ministerial briefing paper	27 June to 20 July
Cabinet approval of regulations	25 July
Regulations in force (other than those with delayed commencement dates) – assuming waiver of 28 day rule	1 August

Proposals relating to live animal exports

88. In addition to the proposals in this briefing relating to bobby calves, the public consultation that closed on 19 May also included six proposals relating to the export of live animals. These proposals include bringing the conditional ban on the export of livestock for slaughter under the Animal Welfare Act via regulation (this ban currently sits under a Customs Excise Prohibition Order, which will expire on 20 December 2016); and bringing into effect provisions within the AW Amendment Act that will enable the Director-General of MPI to require exporters to report on the welfare of exported animals during their journey and for to 30 days post arrival.
89. There is no need to obtain additional policy approval for these proposals because they have already been approved by Cabinet when the Animal Welfare Amendment Bill was introduced, and by Parliament when the Bill was passed in May 2015.
90. MPI recommends that we take the opportunity to progress drafting regulations relating to the live animal export proposals in time for these to be put to Cabinet for approval on 25 July alongside the draft regulations for young calves.

91. Advancing delivery of these regulations will:

- enable the Director-General of MPI to require reports from exporters on the welfare of exported animals as soon as the new regulations come into effect; and
- ensure a seamless transition for the current conditional ban on the export of livestock for slaughter from one regime to another. The regulations would include a delayed commencement date so that provisions relating to the export of livestock for slaughter would come into effect on 20 December 2016, when the current Customs Excise Prohibition Order (Livestock for Slaughter) expires.

APPENDIX

Animal Welfare Regulations – Young Calves Additional detail about each regulatory proposal

1. This appendix provides additional information about the policy rationale for and intended scope of each proposed regulation covering the welfare of young calves. The precise wording and level of detail of the final draft regulations will be subject to advice from Parliamentary Counsel Office and will be submitted to Cabinet for its approval on 25 July 2016.
2. As well as the individual proposals, there are two overarching issues that will be considered as part of the development of this set of draft regulations: the definition of a “young calf”; and the extent to which affected persons will be required to demonstrate compliance with the regulations.

Definition of a “young calf”

3. Throughout the consultation process, MPI has defined a “young calf” as being “a bovine animal that is up to 14 days of age that has been permanently separated from its mother.”
4. This definition is narrower than the definition of “calf” in the Codes of Welfare, which is “a young bovine until it is weaned.” However, this narrower definition is considered appropriate because the regulations are intended to cover the subset of calves commonly known as “bobby” calves that are most likely to be exposed to the circumstances of transportation for sale or slaughter while they are particularly young and vulnerable.
5. If the broader definition were used, many more animals (including many more in the beef industry) would be covered. This would have a much greater impact on a larger number of stakeholders but would be unlikely to achieve a proportionally greater benefit to the welfare of calves.
6. It should be noted that there is one exception in these proposals: the prohibition of the use of blunt force trauma except in emergencies, where the broader definition of “calf” is proposed. This is because the current Dairy Cattle Code of Welfare prohibits Blunt Force Trauma for all dairy calves, not just young calves. The regulation would be drafted so as not to downgrade the existing prohibition and would also extend the coverage to beef calves up to the point that they are weaned.

Requirements to demonstrate compliance with regulations

7. For many of these proposed regulations, it will be necessary to include provisions that require the affected persons (farmers, transporters, meat processors etc.) to demonstrate that they have complied with certain specific requirements. For example, to prove whether a calf is at least four full days past separation from its mother before it is presented for transportation, or to prove that calves at a processing plant have been slaughtered or fed again within 24 hours of their last feed.

8. This could involve specific record-keeping or a requirement that practitioners prove they have appropriate systems in place to enable compliance with these regulations.

1. Fitness for Transport – Age & Physical Characteristics

Proposed rule	<p>1) A young calf may not be presented for collection for transportation for the purpose of sale or slaughter until four full days have elapsed since the time at which it was separated permanently from its mother.</p> <p>2) When a young calf is presented for collection <i>[likely by a farmer or farm employee]</i> for transportation for the purpose of sale or slaughter, and when it is collected <i>[likely by a transporter]</i> it must:</p> <ol style="list-style-type: none"> be free of disease, deformity, blindness or any disability; be alert and able to rise from a lying position and, once up, capable of moving freely, is not listless and is able to protect itself from trampling and being injured by other calves; have hooves that are firm and worn flat and not bulbous with soft unworn tissue; and have a navel cord which is wrinkled, withered and shrivelled and not pink or red coloured, raw or fleshy.
Penalty	<p>\$500 infringement offence. Note that there are three distinct offences here:</p> <ul style="list-style-type: none"> Presenting for transport a calf that is less than four days from separation (\$500 infringement, likely against the farmer). Presenting for transport a calf that does not meet the physical requirements listed above (\$500 infringement, likely against the farmer). Accepting for transport a calf that does not meet the physical requirements listed above (\$500 infringement, likely against the transporter).
Rationale for the proposed rule and penalty	<p><u>Rule</u></p> <p>This rule is intended to ensure that all calves which are presented for transportation for sale or slaughter are physically strong enough to withstand that transportation. Animals that do not meet these criteria are at higher risk of suffering compromised welfare during the journey.</p> <p>The proposal for this offence to be a strict liability offence recognises that the offence involves straight forward matters of fact. The times at which a calf was born and separated from its mother will be within the knowledge of the farmer. As such, it is reasonable to place an onus on the farmer to establish, on the balance of probabilities, the defences that are detailed in the covering part of this submission. Similarly, it is reasonable to place an onus on the farmer to demonstrate that their systems are such that sub-standard calves are not presented for transport; and on the transporter to demonstrate that they have systems in place to ensure that sub-standard calves are not accepted for transport.</p> <p><u>Penalty - \$500 infringement offence.</u></p> <p>This regulation is considered suitable for infringement because the physical characteristics are reliably identifiable and measurable both by practitioners and inspectors. The minimum age element of the regulation is something that farmers should be able to prove with reference to relevant records or to appropriate systems that they have put in place to avoid presenting underage calves for transport.</p> <p>The proposal to prescribe this fee at \$500 reflects that the majority offenders will be farmers, and \$500 is likely to be a sufficient economic deterrent to individual farmers. Section 25 of the Act provides penalties of \$50,000 or 12 months imprisonment for individuals or \$250,000 for bodies corporate for the act of transporting an unfit animal. These provisions will be available for use in cases where severe welfare compromise has occurred. However, the benefit of an infringement system is that it is clear and comparatively swift to administer.</p>
Impact of the rule	<p>The impact of the regulation on the majority of practitioners is expected to be minimal. This is because the requirements follow closely the existing checklist for unweaned calves that is already contained in the Transport within New Zealand Code of Welfare.</p> <p>The most notable change from the transport code is that the requirement calves be at least four days old has been strengthened slightly. The regulation would specify that this age be measured from the point at which a calf is first separated permanently from its mother. Feedback from farmers at MPI workshops suggests that most already have systems in place to track the ages of batches of calves, but some may need to review whether they need to record this information.</p>

2. Twelve hour maximum duration of transport	
Proposed rule	A young calf must not be transported on a vehicle for more than 12 hours from the point of loading to arrival at the final destination of the journey.
Penalty	Prosecutable offence in regulation with penalty up to \$5,000 for individual and \$25,000 for body corporate.
Rationale for the proposed rule and penalty	<p><u>Rule</u></p> <p>Many factors impact upon the welfare of calves during transportation, including their health at loading and the physical and environmental conditions during the journey.</p> <p>Twelve hours maximum journey time is the current recommendation for young animals in the Transport within New Zealand Code of Welfare. Research shows that young calves that are in good condition can tolerate transportation of up to 12 hours without any significant detrimental physical impacts. However, shorter journey times do reduce the risk of exacerbating existing stress factors causing injury or exhaustion during the journey.</p> <p>MPI consulted on potentially reducing maximum journey times to eight hours. However, feedback from stakeholders has indicated that this may not always be possible in every part of the country - particularly the west coast of the South Island. This is because, at certain times of the calving season (during the peak, when many processors are at capacity; and at either end, when fewer processing plants operate) slaughter facilities may not be available within an eight hour radius.</p> <p>The rationale for continuing to permit journeys up to 12 hours is that, in some circumstances, by allowing some calves to be transported a few hours longer it may be possible to take them to a meat processing facility that is less busy than one closer to the farm of origin. This, in turn, would enable the calves to be slaughtered more quickly overall, which is the better welfare outcome.</p> <p>The proposal for this offence to be a strict liability offence recognises that the offence involves straight forward matters of fact. Any reasons why animals are transported for more than 12 hours will be within the knowledge of the defendant. As such, it is reasonable to place an onus on the defendant to establish, on the balance of probabilities, the defences that are detailed in the covering part of this submission.</p> <p><u>Penalty</u></p> <p>The potential time and effort required to prove breach of this regulation means that it is more appropriate that it be a prosecutable offence rather than an infringement. It also affords greater flexibility to consider extenuating circumstances that might have contributed to a breach in any given case.</p> <p>The proposal to prescribe the penalty at the maximum allowable under the Act reflects the potential harm to calves from a failure to comply with the rule. It allows the court to take into account the potential deliberate nature of the failure (e.g. economic incentive for non-compliance) and that offender may be a corporation for whom a lesser penalty may be insufficient business incentive to comply.</p>
Impact of the rule	<p>Transporters would be liable for ensuring that journey times do not exceed 12 hours.</p> <p>MPI figures indicate that average transport times from farm to slaughter during the bobby calf season range between three and four hours. However, a significant minority are in the 8-12 hour range and some are even longer. Consultation feedback has provided mixed reports about the extent to which these longer journeys are always necessary as opposed to a simple commercial decision. A research programme is currently underway to assess the impact of different journey times on young calves. Reducing the permitted journey time prior to completion of the research could compromise findings and lead to a less scientifically robust outcome. Once the research is complete we may re-consider this rule, subject to the findings of the project.</p>

3. Prohibition of killing by blunt force trauma except in emergency circumstances	
Proposed rule	<p>A calf may not be killed by the use of blunt force trauma caused by a blow to the head except in circumstances where the calf is in severe pain or distress, requires emergency humane destruction as a result and where no reasonable alternative to the use of blunt force trauma is available.</p> <p>Unlike the rest of these proposals, this regulation would apply to all calves (“bovines that are not yet weaned”) rather than only “young calves.” This would avoid downgrading the current prohibition in Minimum Standard 17 in the Dairy Cattle Code, which applies to “calves.”</p>
Penalty	Prosecutable offence in regulation with penalty up to \$5,000 for individual and \$25,000 for body corporate.
Rationale for the proposed rule and penalty	<p><u>Rule</u></p> <p>The use of blunt force trauma to kill calves is declining in New Zealand, particularly following the 2014 revision to the Dairy Cattle code of welfare which stated that this practice should not be used. For example, a recent survey by MPI of slink skin operations found that the incidence of calves showing blunt force trauma to the head had decreased from 11% in 2013 to 2% in 2015.</p> <p>It is possible to kill a calf quickly and efficiently without causing unnecessary pain and distress using blunt force trauma. However, the use of a captive bolt or firearm is considered more certain to achieve rapid, humane death.</p> <p>The use of blunt force trauma presents a significant risk to our reputation as a responsible producer of animals and animal products. Placing the current code of welfare prohibition into a regulation will help to ensure that this practice is limited to emergency situations and does not become more common practice again.</p> <p>It is proposed that use of blunt force trauma outside of emergency circumstances will be a strict liability offence. The circumstances in which blunt force trauma was used, and the extent to which it can be considered that no reasonable alternative was available will be within the knowledge of the defendant. As such, it is reasonable to place an onus on the defendant to establish, on the balance of probabilities, the defences that are detailed in the covering part of this submission.</p> <p><u>Penalty</u></p> <p>A key element in any enforcement of this regulation will be whether the circumstances in any given case met the emergency criteria. The potential time and effort required to prove this one way or the other means that it is more appropriate that it be a prosecutable offence rather than an infringement. It also affords courts the flexibility to consider higher penalties in particularly serious cases.</p> <p>The proposal to prescribe the regulatory penalty at the maximum allowable under the Act reflects the potential for significant calf suffering from poorly applied blunt force. More serious cases can be prosecuted under the Act itself, which provides penalties for killing an animal in a manner that causes unreasonable or unnecessary pain or distress up to \$50,000 for an individual, or 12 months imprisonment; or up to \$250,000 for body corporate. The most serious cases, where there is an element of wilful ill-treatment, carry penalties of up to \$100,000 for an individual, or five years imprisonment; or \$500,000 for body corporate. These higher penalties would be available in cases where it is considered that the use of blunt force trauma, even in an emergency, caused unreasonable or unnecessary pain or distress – e.g. it was done incompetently or with deliberate cruelty.</p>
Impact of the rule	<p>Anybody who is in charge of young calves would be covered by this rule but it would be most applicable to farmers because they are most likely to face circumstances in which a young calf may require humane destruction prior to slaughter.</p> <p>Establishing this prohibition in a regulation, as opposed to the current Dairy Cattle Code of Welfare, would extend its coverage to beef calves as well as dairy calves. However, feedback from farmers at MPI consultation workshops suggests that the majority have now “moved on” from using blunt force trauma. Making this regulation is not, therefore, expected to require that the farming industry make significant changes to current practice.</p>

4. Prohibition of transport by sea across the Cook Strait	
Proposed rule	Prohibition of the transportation of young calves by sea across the Cook Strait.
Penalty	Prosecutable offence in regulation with penalty up to \$5,000 for individual and \$25,000 for body corporate.
Rationale for the proposed rule and penalty	<p><u>Rule</u> Young calves may struggle to tolerate a Cook Strait sea crossing, which includes waiting times both pre and post voyage, sometimes lengthy sea crossings and the potential for rough weather to exacerbate existing stress factors causing injury or exhaustion during the journey. The crossing also adds significant time into any journey, increasing the risk of failure to comply with separate regulations limiting the maximum period between last and slaughter to 24 hours; and limiting the maximum journey times to 12 hours.</p> <p>The proposal for this offence to be a strict liability offence recognises that the offence involves straight forward matters of fact. Any reasons why young calves are transported across the Cook Strait will be within the knowledge of the defendant. As such, it is reasonable to place an onus on the defendant to establish, on the balance of probabilities, the defences that are detailed in the covering part of this submission.</p> <p><u>Penalty</u> Given the expense of transporting livestock across the Cook Strait, the penalties associated with infringements are not considered likely to be a sufficient deterrent to those who might seek to undertake such a journey. A prosecutable offence is therefore considered to be more suitable.</p> <p>The proposal to prescribe the penalty at the maximum allowable under the Act reflects the potential harm to calves from failure to comply with the rule. It allows the court to take into account the potentially deliberate nature of the failure (e.g. economic incentive for non-compliance) and that the offender is likely to be a corporation for whom a lesser penalty may be an insufficient business incentive to comply.</p>
Impact of the rule	<p>It is expected that the primary liability for this requirement would sit with transporters as they are the ones best placed to ensure that the obligation is met.</p> <p>It is no longer common for young calves to be transported by sea across the Cook Strait – such crossings have not taken place for several years. Prohibiting the practice in regulation is not expected to have a significant impact on farming, transport or meat processing businesses. It will, however, ensure that the practice does not recommence.</p>

5. Loading and Unloading Facilities	
Proposed rule	<p>In circumstances where a young calf is transported for the purpose of sale or slaughter, facilities must be provided to enable that calf to walk safely onto and off transportation by its own action.</p> <p>Liability would fall on the owners and/ or persons in charge of the young calves at each location in which those animals are loaded or unloaded.</p>
Penalty	\$500 infringement offence.
Rationale for the proposed rule and penalty	<p><u>Rule</u> Research indicates that loading and unloading is the most stressful part of transportation for young calves. A major factor is the increased handling. Providing loading facilities will help to reduce the risk of this occurring.</p> <p>The proposal for this offence to be a strict liability offence recognises that the offence involves straight forward matters of fact. The reasons behind any failure to provide facilities would be clearly within the knowledge of the defendant. As such, it is reasonable to place an onus on the defendant to establish, on the balance of probabilities, the defences that are detailed in the covering part of this submission.</p> <p><u>Penalty - \$500 infringement offence.</u> The provision or absence of loading facilities will be comparatively simple to determine – either they are in place or they are not. The main elements of “safe” facilities are also considered to be straightforward to identify – e.g. non-slip flooring, protection to stop calves falling off etc. The eventual wording of the regulation and/ or accompanying guidance would detail the essential elements.</p> <p>Setting the infringement fee at \$500 will reflect the welfare impact of any failure to comply. Absence of suitable facilities increases the risk of rough handling, which has the potential to cause moderate harm to these animals.</p> <p>The \$500 fee would also reflect that the majority offenders will be operating a farming business. The prospect of an infringement fee is considered a suitable deterrent to drive the behaviour change that is sought. I.e. why risk an infringement fee (or fees) if, for similar money, compliant facilities could be purchased and installed?</p>
Impact of the rule	<p>This regulation would be likely to have the greatest impact on farmers as the owners/ persons in charge of young calves at the point of collection. Unlike meat processing plants, a significant proportion of farmers (probably more than half) will not currently have facilities that would meet the requirements.</p> <p>Costs could be up to \$2,500 per farm but are likely to be lower where farmers adapt existing facilities and or/ carry out the work themselves.</p> <p>It is proposed that this regulation should be made at the same time as the other young calf regulations at the end of July/ beginning of August 2016. However, it is also proposed that actual commencement be delayed for 12 months. This would respond to stakeholder calls for sufficient time to make the arrangements necessary to comply.</p>

6. Shelter before and during transportation and at points of sale or slaughter

Proposed rule	<p>In circumstances where a young calf is transported for the purpose of sale or slaughter, it must have access to shelter that is clean, dry, suitably ventilated and which provides protection from adverse weather, including extremes of heat and cold. The shelter should also enable the calves to lie down or stand up as they choose.</p> <p>The description above draws from the current Dairy Cattle and Transport Within New Zealand Codes of Welfare. The text of the final draft regulation will achieve these particular outcomes without being too prescriptive about how individual shelters must be constructed. This will allow flexibility for individuals to respond to their own particular circumstances, which is important given the diverse nature of New Zealand's geography, climate and seasonal conditions.</p> <p>Liability would fall on the owners and/ or persons in charge of the young calves at each location or vehicle in which those animals are held before and during transportation and at points of sale or slaughter.</p>
Penalty	<p>Prosecutable offence in regulation with penalty up to \$5,000 for individual and \$25,000 for body corporate.</p>
Rationale for the proposed rule and penalty	<p><u>Rule</u> Requiring a minimum standard of shelter would protect young calves from exposure to extremes of weather and from any other unreasonable or unnecessary distress from their physical environment. This would help to reduce the risk that such exposure could reduce some calves' ability to withstand transportation to the ultimate place of sale or slaughter.</p> <p>The proposal for this offence to be a strict liability offence recognises that the offence involves straight forward matters of fact. The reasons behind any failure to provide shelter would be clearly within the knowledge of the defendant. As such, it is reasonable to place an onus on the defendant to establish, on the balance of probabilities, the defences that are detailed in the covering part of this submission.</p> <p><u>Penalty - Prosecutable offence in regulation</u> The number of variables that could apply in any specific circumstance make this offence unsuitable for infringement. There are likely to be many ways in which shelter could be constructed and where judgement will be necessary in order to determine whether every element is compliant. Making this a prosecutable offence in regulation would reflect the potential complexity and variety of circumstances that may apply in any individual location.</p> <p>The proposal to prescribe the penalty at the maximum allowable under the Act reflects the potential harm to calf welfare from a failure to comply with the rule. It allows the court to take into account the potentially deliberate nature of the offending and that the offending will likely occur in a commercial context where a lesser penalty is unlikely to provide sufficient business incentive to comply.</p>
Impact of the rule	<p>This regulation would be likely to impact farmers as the owners/ persons in charge of the facilities in which young calves are held prior to transportation. Some of these are uncovered and exposed to the elements, meaning that action would need to be taken to upgrade them.</p> <p>Transporters are unlikely to need to make any changes to the vehicles they typically use. Meat processors may need to upgrade any uncovered lairage facilities. Similarly, sale yards may need to upgrade any uncovered pens in which they keep young calves.</p> <p>The cost of providing suitable shelter will depend on the extent to which existing facilities would need to be upgraded or replaced. In many cases, it may be possible to combine the provision of suitable shelter with the facilities for loading calves onto transport (e.g. using raised pens). This would help to control costs.</p> <p>It is proposed that this regulation should be made at the same time as the other young calf regulations at the end of July/ beginning of August 2016. However, it is also proposed that actual commencement be delayed for 12 months. This would respond to stakeholder calls for sufficient time to make the arrangements necessary to comply.</p>

7. Maximum time off feed	
Proposed rule	<p>A young calf must be slaughtered no later than 24 hours following their last feed or fed again.</p> <p>This rule is intended to apply to circumstances when a young calf has been or is being transported off farm for the purpose of slaughter. The intention is not to appear to suggest that calves need only be fed once every 24 hours in any other circumstance.</p>
Penalty	Prosecutable offence in regulation with penalty up to \$5,000 for individual and \$25,000 for body corporate.
Rationale for the proposed rule and penalty	<p><u>Rule</u></p> <p>Currently, the Codes of Welfare permit young calves to be off feed for up to 30 hours prior to slaughter. However, research suggests that this 30 hour limit relies too heavily on good practice being followed at every point before young calves enter slaughter premises in order that they are robust enough to reliably withstand this process.</p> <p>Reducing the overall limit to 24 hours (recommended as best practice in relevant research) would reduce the risk of calves experiencing extended periods of significant hunger and becoming hypoglycaemic.</p> <p>The proposal for this offence to be a strict liability offence recognises that the offence involves straight forward matters of fact. Any reasons for failing to meet the 24 hour deadline will be within the knowledge of the defendant. As such, it is reasonable to place an onus on the defendant to establish, on the balance of probabilities, the defences that are detailed in the covering part of this submission.</p> <p><u>Penalty</u></p> <p>The potential time and effort required to prove breach of this regulation means that it is more appropriate that it be a prosecutable offence rather than an infringement. It also affords greater flexibility to consider extenuating circumstances that might have contributed to a breach in any given case.</p> <p>The proposal to prescribe the penalty at the maximum allowable under the Act reflects the potential for significant calf welfare impact from failure to comply with the rule. It allows the court to take into account the potential deliberate nature of the failure (e.g. economic incentive for non-compliance) and that offender may be corporations for whom a lesser penalty is unlikely to provide sufficient business incentive to comply.</p>
Impact of the rule	<p>The person in charge of a young calf at the point in time when 24 hours has elapsed since that calf's last feed would be liable for slaughtering the calf or feeding it. In most cases this will be meat processors.</p> <p>Feedback from MPI consultation workshops and bi-lateral discussions indicates that most processing plants currently operate on a same-day slaughter basis most of the time. The Meat Industry Association (MIA) has, at various points, questioned the necessity of this regulations and suggested that some plants may struggle to comply.</p> <p>However, MIA's formal response to the consultation has stated that it believes compliance will be possible by next season (2017). It will not be possible in 2016 because this year's contracts of supply with farms have been issued already. By 2017 it will be possible for processors to include clauses in these contracts that will require feeding times on-farm and the scheduling of transportation for young calves to be organised in a way that will enable the 24 hour deadline to be met consistently.</p> <p>It is proposed that this regulation should be made at the same time as the other young calf regulations at the end of July/ beginning of August 2016. However, it is also proposed that actual commencement be delayed for six months. This would respond to the MIA's calls for sufficient time to make the arrangements necessary to comply.</p>