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Ministry for Primary Industries
Manatū Ahu Matua



5 March 2018

Document Number: Sub17-0064

Animal Welfare Regulations for Submission to Cabinet

Purpose:

This briefing provides you with:

- a Cabinet paper for submission to the Cabinet Economic Development Committee;
- background information to support discussion with your Cabinet colleagues; and
- advice in relation to the legal and technical requirements you must be satisfied of before recommending regulations.

Minister	Action Required:	Minister's Deadline
Associate Minister of Agriculture	Note and agree the recommendations contained in the briefing.	15 March 2018
CC Minister of Agriculture		

Contact for telephone discussion (if required)

	Name	Position	Work	After Hours
Responsible Manager	Antoinette Hindle	Manager Regulatory Reform and Animal Welfare Policy	04 894 0685	021 686 890
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Key Messages

1. A regulatory gap was identified in the Animal Welfare Act (the Act). The Act provides for high end offences and penalties for serious instances of abuse and/or neglect against animals. However, effective tools for addressing less serious instances of animal welfare offending were absent.
2. In 2015, the Act was amended to enable regulations to be made. Regulations provide a tool to address less serious instances of animal welfare offending.
3. Regulations, unlike minimum standards in codes of welfare, are directly enforceable through associated offences and penalties. Regulations fill the gap between the Act and codes as they are more specific than the Act, are easier to prove and have appropriate penalties for low to medium offending.
4. The regulations in this paper largely reflect existing requirements in codes of welfare.
5. In 2016, two sets of regulations were delivered. They were designed to protect the welfare of young calves¹ (often referred to as bobby calves) and perpetuate New Zealand's existing conditional ban on the export of livestock for slaughter².
6. In July 2017, the Government agreed to the policy for a further package of regulations relating to:
 - stock transport;
 - farm husbandry (incl. surgical and painful procedures);
 - companion and working animals;
 - pigs;
 - layer hens;
 - crustaceans;
 - traps;
 - rodeos; and
 - accounting for animals used in research, testing, and teaching.
7. The Minister was invited to report back to the Economic Growth and Infrastructure Cabinet Committee (EGI)³ with the proposed final regulations for approval (EGI-17-Min-0172).

¹ Animal Welfare (Calves) Regulations 2016.

² Animal Welfare (Export of Livestock for Slaughter) Regulations 2016.

³ DEV (Economic Development Committee) is the equivalent to the previous Government's EGI.

8. The final drafts of these regulations are ready for submission to the Executive Council pending Cabinet approval. There are two sets of regulations:
 - the Animal Welfare (Care and Procedures) Regulations 2018; and
 - the Animal Welfare (Records and Statistics) Amendment Regulations 2018.
9. There are two regulations, within the Animal Welfare (Care and Procedures) Regulations 2018, where some stakeholders are significantly opposed. These regulations are the prohibition on docking dogs' tails and restrictions on the removal of dogs' dew claws. MPI understands that a complaint to the Regulations Review Select Committee in 2019, relating to the proposed prohibition on docking dogs' tails, is probable.
10. The Act requires you to be satisfied of certain legal and technical requirements before recommending regulations be made. This briefing includes advice for you in relation to all of those matters.
11. A Cabinet paper with appendices is attached for your approval and submission to Cabinet Office by 10:00am on 15 March 2018. The final regulations will be submitted directly to the Cabinet Office for submission to the Executive Council.

Recommendations

12. Ministry for Primary Industries recommends that you:

- a) **Note** the contents of this briefing. **Noted**
- b) **Agree** that you are satisfied the proposed Animal Welfare (Care and Procedures) Regulations 2018 meet the requirements of section 183A and 183B of the Animal Welfare Act 1999. **Agreed / Not Agreed**
- c) **Agree** that all changes to the proposed Animal Welfare (Care and Procedures) Regulations 2018 are minor or technical in nature, with the exception of the changes identified in the attached Cabinet Paper as requiring further policy approval from Cabinet. **Agreed / Not Agreed**
- d) **Agree** to the minor and technical changes to the proposed Animal Welfare (Care and Procedures) Regulations 2018. **Agreed / Not Agreed**
- e) **Note** that the Animal Welfare (Records and Statistics) Regulations fall within the scope of section 183(1)(c)(iiia) of the Animal Welfare Act 1999. **Noted**
- f) **Agree** to recommend that Cabinet approve the Animal Welfare (Records and Statistics) Amendment Regulations 2018 and the Animal Welfare (Care and Procedures) Regulations be made pursuant to the Animal Welfare Act 1999. **Agreed / Not Agreed**
- g) **Agree** to sign the attached Cabinet paper and submit it to the Cabinet Office on a date to be agreed with you for consideration by the Cabinet Economic Development Committee. **Agreed / Not Agreed**

Jarred Mair
Deputy Director-General
Policy and Trade
for the Director-General

Hon Meka Whaitiri
Associate Minister for Primary Industries

/ / 2018

Background

13. In 2013, New Zealand's first Animal Welfare Strategy was launched. Two overarching objectives were identified for New Zealand's animal welfare system (see B17-0709 for further details):
 - care for our animals; and
 - care for our reputation.
14. In 2015, the Act was amended, enabling regulations to be made which:
 - will make some requirements in relation to the care of and conduct towards, animals directly enforceable; and
 - enhance clarity for surgical and painful procedures performed on animals by specifying what procedures can be undertaken, by whom and how.
15. In 2015, the Ministry for Primary Industries (MPI) convened a working group to select minimum standards from existing codes of welfare to develop into regulations.⁴ Alongside MPI, the working group consisted of the Royal New Zealand Society for the Prevention of Cruelty to Animals (SPCA), the Veterinary Council of New Zealand, and the National Animal Welfare Advisory Committee (NAWAC).
16. The working group assessed the minimum standards against the following criteria:
 - enforceability;
 - whether greater clarity for surgical and painful procedures was required;
 - the extent of non-compliance; and
 - feasibility of translating the standard into a regulation.
17. Out of over 1,200 minimum standards, 91 were developed into regulatory proposals for public consultation in 2016 (see B17-0709). The proposed regulations are intended to specifically target areas of low to medium level animal welfare offending, with financial penalties that are more proportionate to the level of offending than those set out in the Act.

⁴ Codes of welfare are developed by NAWAC and issued by the Minister. NAWAC is your independent advisory committee appointed under the Act.

18. The 91 proposals are being progressed in three tranches as outlined below. This Cabinet paper relates to the second tranche of regulations:

	Proposals	Status
Tranche 1	<ul style="list-style-type: none"> • young calves (bobby calves) • export of livestock for slaughter⁵ 	Completed 2016
Tranche 2	<ul style="list-style-type: none"> • <i>stock transport, farm husbandry, companion and working animals, pigs, layer hens, crustaceans, and rodeos, traps and research, testing and teaching</i> 	<i>Content of this paper</i>
Tranche 3	<ul style="list-style-type: none"> • the majority of the surgical and painful procedures 	To be progressed in 2018/19

19. The following two sets of regulations have been developed and will be submitted with the attached Cabinet paper:
- Animal Welfare (Care and Procedures) Regulations 2018.
 - Animal Welfare (Records and Statistics) Amendment Regulations 2018.

The Animal Welfare (Care and Procedures) Regulations 2018

20. The proposals in the Animal Welfare (Care and Procedures) Regulations were selected to achieve the greatest immediate animal welfare benefits. The majority of the new regulations reflect existing minimum standards within codes of welfare developed under the Act.
21. For that reason, obligations for people when caring for their animals have not substantively changed under the proposed regulations. The primary change is that MPI and the SPCA will be able to directly enforce the regulations without requiring full prosecution under the Act, with the ability to issue infringements, or take prosecutions under the relevant regulation.
22. The Animal Welfare (Care and Procedures) Regulations 2018 relate to:
- Stock Transport
 - Farm Husbandry (incl. surgical and painful procedures);
 - Companion and Working Animals;
 - Pigs;
 - Layer Hens;
 - Crustaceans; and
 - Rodeos.
23. Two further matters are unified into the Animal Welfare (Care and Procedures) Regulations for administrative efficiency:
- the entire Animal Welfare (Calves) Regulations 2016; and
 - infringement fees and court fines related to live-capture traps.

⁵ The export of livestock for slaughter requirements entrench the existing conditional prohibition on the export of cattle, deer, goats and sheep (collectively referred to as livestock) for slaughter from New Zealand.

The Animal Welfare (Records and Statistics) Amendment Regulations 2018

24. Prior to using animals in research, testing, and teaching, a person or institution must hold a code of ethical conduct approved by the Director-General of MPI (code holders). The Animal Welfare (Records and Statistics) Regulations require code holders to record and report the numbers of animals used in research, teaching, and testing to MPI.
25. To address a lack of oversight around what happens to 'surplus animals', the current suite of regulations amend the Records and Statistics Regulations and require code holders to record 'surplus animals'. A 'surplus animal' is an animal that is bred for the purposes of research, testing and teaching, but is then killed without being used.
26. This change will increase the transparency and oversight of the research, testing and teaching system.

What this briefing covers

27. This briefing is split into two parts outlined below:
28. Part One: Background information to support your discussion of the Cabinet paper and regulations. The issues covered are:
 - resolution of contentious issues that were identified when policy approval for the regulations was given by Cabinet in July 2017;
 - information on the two outstanding areas of contention with stakeholders;
 - resolution of MPI's and the Ministry of Justice's divergent view on maximum fines associated with infringement offences; and
 - implementation, monitoring, and evaluation of the regulations.
29. Part Two: Legal and technical requirements that you must be satisfied of prior to recommending regulations. These are:
 - minor and technical amendments to the regulations requiring your approval;
 - your legal obligations in relation to regulations that do not fully meet the obligations in the Act;
 - your legal obligations in relation to regulations that cover surgical and painful procedures;
 - your obligation to consult with NAWAC; and
 - your obligation to consult with interested parties.

Part One: Background information

Resolution of contentious issues identified in July Cabinet Paper

30. During the development of the regulations contained within this paper there was strong support for the majority of the proposals from industry, advocacy groups, and the general public. Public consultation identified only six proposals where stakeholders differed significantly in their views.
31. MPI has worked extensively with stakeholders to resolve the six outstanding issues. Four of these issues have been resolved as outlined briefly below and in Appendix 1. There are now only two remaining outstanding areas—the prohibition of docking dogs' tails and restrictions on the removal of dogs' dew claws. These two outstanding issues are discussed in paragraphs 31 to 51.

Use of electric prodders on livestock

32. Stakeholders' views varied on the minimum weight limit for when an electric prodder can be used for cattle and pigs. The regulation seeks to balance the use of electric prodders as an important stock handling and safety tool, with the potential for their use to cause pain and distress.
33. The use of electric prodders is generally prohibited on deer. However, due to a number of factors including poor design of slaughter plants, the regulations allow electric prodders to be used on deer when loading and unloading a stunning pen. This issue will be revisited in three years, following research on the use of prodders at deer processing plants.

Restrictions on the transport of lame sheep

34. Concern was raised that sheep should not be included in the transport of lame animals' regulation as lameness is considered endemic in the national sheep flock, and is hard to control and identify.
35. MPI and industry identified a threshold appropriate for sheep and goats. Industry are now fully supportive of this regulation.

Requiring the use of pain relief when undertaking disbudding or dehorning of animals

36. This is a significant change from current requirements. Stakeholders questioned whether local anaesthetic is practical and were concerned about cost and access to pain relief.
37. These regulations have a delayed commencement to 1 October 2019 to allow time to address concerns, and ensure systems for accessing pain relief are in place.

Prohibiting the docking of cows tails

38. Stakeholders differed on whether a defence should be provided for farmers to dock their cow's injured tail in an emergency. As legitimate tail injuries do occur, a defence has been provided to allow farmers to respond to acute accidental tail injuries.
39. This proposal will be promoted by both MPI and the dairy industry, however the prohibition may not be supported by all individual farmers.

Two regulations that are still contentious

40. There are two areas where stakeholders still have significant concerns with the regulations. These are the prohibition on docking dogs' tails and restrictions on the removal of dogs' dew claws⁶.

⁶ Dew claws are digits, analogous to the human thumb, that grow above the paw on the inside of dogs' legs.

Docking dogs' tails

41. The incoming regulation will prohibit the docking of dogs' tails, except for therapeutic purposes carried out by a veterinarian using pain relief.
42. Opposition to the regulation continues from a small number of dog breeders who wish to continue docking. Breeders claim that docking prevents a dog from injuring its tail in the future, and that docking preserves the standard of traditionally docked breeds.
43. A legal challenge in relation to this proposal is probable. We understand anecdotally that this challenge is likely to involve a complaint to the Regulations Review Select Committee in 2019.
44. Conversely, the proposal to prohibit docking has received considerable and ongoing support from the veterinary profession, the SPCA and the wider New Zealand public who view dog tail docking as an unnecessary procedure.
45. Given the strong views on this proposal, MPI engaged an independent expert to conduct a review of all written submissions and relevant science. The expert, Dr Emily Patterson-Kane⁷, concluded that tail docking is a significant surgical procedure with the potential to cause both significant immediate pain and distress, and chronic complications. She also concluded that routine, non-therapeutic tail docking, is not justified by any animal welfare benefit to the dog.
46. Around 30 countries or territories worldwide have prohibited or heavily restricted dog tail docking. These include Australia, the United Kingdom, and most European countries.
47. Scotland is partially reversing its 2007 tail docking ban, allowing certain gun dogs to have docked tails due to a claimed rise in injuries. New Zealand breeders who oppose the proposed ban on routine docking of dogs' tails claim that this reversal shows the docking ban will not work.
48. However, regulators in Scotland appear to have found a specific Scottish study influential, and this was noted by Dr Patterson-Kane as an outlier. The study sought self-reported tail injuries from gun dog owners, as opposed to other studies which relied on veterinary records. Generally, studies find less than 1% of undocked dogs suffer tail injuries.
49. MPI is satisfied that the process followed has been robust. Sub17-0016 contains more information on the process behind the dog tail-docking regulation and background research.

⁷ Dr Patterson-Kane is an animal welfare specialist. She is currently the Animal Welfare Scientist for the American Veterinary Medical Association.

50. MPI met with representatives from the Advocateship of Purebred Dog Breeders in early February 2018. They expressed concern that the Regulatory Impact Statement accompanying the June 2017 Cabinet paper did not accurately estimate the costs and impacts on breeders. MPI has reviewed this Regulatory Impact Statement and is satisfied it does not understate the potential impact.
51. Additionally, Advocateship of Purebred Dog Breeders expressed their preference for a scheme whereby experienced breeders could become qualified through a scheme of accreditation under the NZQA framework to remove the tails from dogs under four days of age (which they refer to as neo-natal whelps) via a procedure called tail-banding.
52. They consider this practice will not be covered under the incoming regulation as they do not consider neo-natal whelps to be dogs. Officials made it clear this practice is intended to fall under the incoming ban on tail docking under this regulation, and that any ordinary meaning of the word dog includes dogs of any age.

Restrictions on the removal of dogs' dew claws

53. Dew claw removal is done to either meet traditional breed standards; or to prevent injuries to the dew claw.
54. Under the current code of welfare, only a veterinarian can remove dew claws if the dog is over four days old. However, anyone can remove both articulated and unarticulated dew claws⁸, as long as:
 - the dog is under four days old; and
 - that person has the knowledge, training and competence to undertake the procedure and care for the dog.
55. The incoming regulation will prohibit non-veterinarians removing:
 - a front limb dew claw, whether articulated or not;
 - an articulated hind limb dew claw; or
 - a non-articulated hind limb dew claw of a dog of four days of age or older.Non-veterinarians will still be allowed to remove non-articulated hind limb dew claws on dogs less than four days of age.
56. The procedure to remove articulated dew claws involves cutting through tendon and bone and has the potential to cause pain and distress. As such, it should be undertaken by a veterinarian providing pain relief.

⁸ An articulated dew claw is a claw analogous to a human thumb, attached to the leg by bone and tendons. Non-articulated dew claws are attached to a flap of skin and tissue.

57. Dew claws are often more loosely attached on the hind limbs and so considered more susceptible to injury. People with appropriate training and competence will be able to remove hind limb non-articulated dew claws on dogs less than four days of age. There is little clear evidence that proves a dog under the age of four days experiences any pain or distress from the removal of a non-articulated hind dew claw.
58. Dogs NZ (representing some dog owners and dog breeders) consider the regulation goes too far and that appropriately qualified non-veterinarians ought to be allowed to continue to remove their dogs' dew claws.
59. Conversely, the New Zealand Veterinary Association and the SPCA both consider the regulation does not go far enough, and that removal of dew claws, even by veterinarians, ought to be prohibited for any reason other than therapeutic purposes.
60. On the information available, MPI considers the current regulation strikes an appropriate balance. Because of the lack of clear evidence provided by either side, MPI has not restricted the removal of non-articulated hind dew claws of dogs under the age of four days.

Resolution of divergent views with the Ministry of Justice on maximum fines associated with infringement offences

61. The policy agreed by the Government in July 2017 set the maximum Court imposed fine for both \$300 and \$500 infringement offences at \$5,000 for individuals and \$25,000 for body corporates.
62. Following policy approval, the Ministry of Justice (MoJ) raised concerns at the level of the potential maximum Court imposed fine associated with the infringement offences. MoJ considered that the maximum Court imposed fine should be in the region of two to three times the infringement fee so as to:
 - not deter individuals or body corporates from challenging the infringement fee in Court out of concern that they could be liable for a substantially higher penalty—under MoJ's approach, the maximum Court imposed fine for the \$300 and \$500 infringements would be set at approximately \$900 and \$1,500, respectively; and
 - reflect the relatively low seriousness of offences that are appropriate to be treated as infringement offences.

63. MPI considers that lowering the maximum Court imposed fine, to the levels noted above, is not appropriate in all circumstances. MPI considers that it is important that the Courts are able to impose a meaningful penalty in order to deter offending. In particular, MPI considers it is important that higher maximum Court imposed fines are available for body corporates for the seven stock transport related regulations, noted below, to ensure body corporates do not treat non-compliance with the regulations as an on-going cost of business. Stock transport generally involves large corporate organisations being responsible for the transportation of millions of animals annually. Electric prodders are used in the transport sector but also in other situations which generate significant revenue e.g. rodeos.
64. MPI and the MoJ have worked extensively to identify an approach that balances the need to provide a meaningful deterrent, especially for body corporates, against ensuring that the potential maximum Court fine does not unduly influence a person's decision to challenge the infringement notice in Court.
65. MPI and MoJ agree that the following approach balances these two objectives:
- reduce the maximum Court imposed fine for **individuals** for all the infringement offences to \$900 or \$1,500 where the infringement fee is \$300 or \$500, respectively;
 - reduce the maximum Court imposed fine for **body corporates** for infringement offences to \$900 or \$1,500 where the infringement fee is \$300 or \$500, respectively. Except for the seven stock transport related regulations outlined below:
 - Reg 30 – Prevention of injury during transport
 - Reg 32 – Prevention of back rub during transport
 - Reg 33 – Ensuring young calves are fit for transport
 - Reg 40 – Restrictions on transporting lame animals
 - Reg 41 – Restrictions on transporting animals in late pregnancy
 - Reg 42 – Restrictions on transporting animals with injured or diseased udders
 - Reg 48 – Use of electric prodders
 - set the maximum Court imposed fines for body corporates, for the seven regulations above, at either \$1,500 or \$7,500 (being five times the penalty imposed on individuals), depending on the situation:
 - \$1,500 – where a body corporate challenges an infringement notice in Court – in these situations MPI or the SPCA considers the original \$500 infringement fee is an appropriate deterrent given the nature of the offending; or
 - \$7,500 – where MPI or SPCA have initiated proceedings in Court against a body corporate, in relation to an infringement offence – in these situations MPI or the SPCA considers that the infringement fee is not appropriate given the nature of the offending, for example, the body corporate is a recidivist offender or offences were committed against multiple animals during the events in question.

Ongoing implementation, monitoring, and evaluation

66. MPI is preparing a detailed implementation plan for the regulations which will provide guidance material for Animal Welfare Inspectors, our enforcement partners, and external stakeholders who will be affected by the regulations.
67. A monitoring and evaluation programme to assess the effectiveness of the regulations in driving behaviour change and improving animal welfare outcomes is also being designed. Briefings on the progress of these programmes will be provided to you in due course.

Part Two: Legal and technical requirements that must be met before recommending regulations

Minor and technical amendments to the regulations requiring the Minister's approval

68. In July 2017, Cabinet agreed to the Minister approving minor and technical amendments to regulations that were identified as a result of the drafting process. A few minor and technical amendments to the regulations have been made during drafting as a result of discussions with stakeholders. The amendments will ensure that the regulations are operationally effective.
69. You have authority to approve these amendments and they do not require further Cabinet consideration. However, if your colleagues raise any of these amendments, they are attached, alongside the rationale for the amendments, in Appendix 2.

Regulations that do not fully meet the obligations of the Act – section 183A(2)

70. The Act sets out the general obligations of owners and people in charge of animals to their animals well, including ensuring that their animals' physical, health, and behavioural needs are met.
71. Section 183A(2) of the Act allows regulations to be made that prescribe standards or requirements that do not meet all the obligations under the Act, provided certain statutory criteria are met. In particular, the regulations must be transitional only, and may only allow the practices in question to continue for a limited time, while the affected industry moves to practices that are fully compliant with the obligations of the Act.
72. Regulation 21 provides standards to transition from conventional ("battery") cages for layer hens, and does not fully meet the obligations of the Act. Conventional cages do not allow sufficiently for the physical, health, or behavioural needs of the hens, which is why they are being phased out.

73. Regulation 21 requires conventional cages for layer hens to be phased out by 2022⁹. This is the date agreed by industry and NAWAC and reflected within the Layer Hens Code of Welfare as the date on which all conventional cages will cease to be used in New Zealand.
74. Detailed analysis of the Minister's obligations in relation to Regulation 21 is set out in Appendix 3.

Regulations relating to surgical and painful procedures - section 183B

75. Before recommending regulations that relate to surgical and painful procedures, you must have regard to the matters set out in section 183B(2) of the Act, including the purpose and nature of the procedure, the impact of the procedure on the animal, the extent the procedure is established in New Zealand, current good practice, and whether the procedure could be managed by other tools under the Act, for example, codes of welfare.
76. Regulations 50 to 59 inclusive relate to surgical and painful procedures. These are:
- tail docking of cattle, pigs and dogs—Regulations 50, 51 and 52;
 - castration of cattle, sheep, horses and pigs—Regulations 53, 54 and 55;
 - removal of dogs' dew claws—Regulation 56;
 - disbudding and dehorning cattle—Regulations 57 and 58; and
 - prohibiting mulesing¹⁰ of sheep—Regulation 59.
77. Appendix 4 sets out how each of the matters set out in section 183B(2) of the Act have been taken into account in relation to each of regulations 50 to 59 inclusive.

Consultation with the National Animal Welfare Advisory Committee

78. The Minister is required to consult the National Animal Welfare Advisory Committee (NAWAC) before recommending the Animal Welfare (Care and Procedures) Regulations be made¹¹.
79. The Committee were involved throughout the development of the Animal Welfare (Care and Procedures) Regulations contained within the Cabinet paper. NAWAC has formally advised that they are supportive of the proposed regulations.

⁹ Conventional cages installed prior to 31 December 1999 must be phased out by 31 December 2018 and those installed prior to 31 December 2001 must be phased out by December 2020.

¹⁰ Mulesing is the removal of strips of wool-bearing skin from around the breech (buttocks) of a Merino sheep to prevent flystrike.

¹¹ Section 183A(10), and section 183B(3)

Consultation with interested parties

80. Before recommending that regulations be made under the Act, section 184 of the Act requires the Minister to:

“Consult, to the extent that is reasonably practicable, having regard to the circumstances of the particular case, the persons the Minister has reason to believe are representative of interests likely to be substantially affected by...proposed regulations.”

81. Prior to obtaining policy approval for the regulations in July 2017 MPI undertook extensive consultation on all the regulations proposed in this package (see B17-0709 for further detail as to the extent of the consultative process).
82. Information about the regulations and the consultation process were also provided to the Federation of Māori Authorities and distributed through Te Puni Kōkiri's Rauika website where public events of interest to Māori can be listed. No feedback was received from the Federation of Māori Authorities.
83. Since Cabinet approved the policy intent of both sets of regulations in July 2017, MPI has continued to work with affected stakeholders to ensure the final wording of the regulations properly captures the agreed intent of the regulations and will be operationally effective.
84. A full list of consulted parties can be found in Appendix 4.

The Animal Welfare (Records and Statistics) Regulations 1999

85. The Animal Welfare (Records and Statistics) Regulations 1999 are being amended under section 183(1) of the Act¹². There is no requirement to consult on these regulations. However, as a matter of best practice MPI has consulted with affected stakeholders and the National Animal Ethics Advisory Committee¹³.

Next steps

86. The Animal Welfare (Care and Procedures) Regulations 2018, and the Animal Welfare (Records and Statistics) Regulations 2018 are now ready for you to recommend to Cabinet for approval. A Cabinet paper is provided for you to lodge with Cabinet Office by 10:00am on 15 March 2018.
87. MPI will work with your office to identify appropriate opportunities for you to announce the decisions once approved by Cabinet and we will develop key messages and talking points to assist you.

¹² Section 183(1)(c)(iia)

¹³ The National Animal Ethics Advisory Committee is your independent advisory committee, analogous to NAWAC, which provides advice on use of animals in research, testing and teaching.

88. Embargoed copies of all the documents will be released to key stakeholders, including the SPCA, 24 hours before any media announcements, to enable those organisations to prepare their own key messages.

Appendix 1: Resolution of contentious issues identified in July Cabinet Paper

Electric prodders (Regulation 48)
<p>Electric prodders are an important safety tool. However they can cause pain and distress and therefore their use is restricted under thirteen codes of welfare. The intent of this regulation is to reflect existing minimum standards and to ensure that electric prodders are not used unnecessarily or on young or small animals. Weight was settled on as the best proxy for age and size.</p> <p>Stakeholder views on the specific weight restriction for cattle and pigs varied. A 150 kg restriction for cattle is based on weaned weights. The 150 kg restriction for pigs is to ensure that prodders are only used on large boars and sows.</p> <p>Following further consultation with the Deer Industry New Zealand, the weight limit for deer when loading or unloading transport was removed, creating a prohibition on the use of prodders when transporting deer. Conversely, it was agreed that electric prodders should be able to be used on deer of any size when loading a stunning pen at a slaughter plant. It was agreed that the use of electric prodders on small deer was allowed due to a number of factors including poor design of slaughter plants. This issue will be revisited in three years, after research is carried out on the use of prodders at deer processing plants.</p> <p>Using prodders on livestock of any size remains legitimate if needed for genuine safety reasons.</p>
Mandatory pain relief for disbudding and dehorning cattle (Regulation 57)
<p>The proposal requiring local anaesthetic for disbudding and dehorning procedures in cattle is a significant change from current code of welfare requirements. Some stakeholders questioned whether local anaesthetic is practical and were concerned about cost and access to pain relief.</p> <p>To address these concerns, the commencement date of these regulations has been deferred to 1 October 2019. This allows industry and the veterinary community to work with MPI to ensure systems for accessing pain relief are in place. It is also expected that the industry will have had time to reach high levels of voluntary compliance by the time of the delayed commencement date.</p>
Restrictions on the transportation of lame sheep (Regulation 40)
<p>Beef + Lamb New Zealand and Federated Farmers represent most of the sheep farmers in New Zealand, and were concerned about sheep being included in the regulation covering the transportation of lame animals. They believe lameness is endemic in the national sheep flock, and can be hard to control and identify.</p> <p>MPI has since met with both industry groups, and identified wording which creates a threshold appropriate for sheep and goats. Industry are now fully supportive of including sheep and goats in the regulation for transporting lame animals. MPI will work closely with industry to ensure farmers are aware of their obligations and how to meet them once the regulation comes into effect.</p>
Prohibition on docking cows' tails (Regulation 50)
<p>Existing requirements in codes of welfare allow for cow's tails to be shortened. The new regulation will prohibit docking cows' tails at any length.</p> <p>Stakeholder's differed on whether a defence should be provided for farmers to dock their cow's tail in an emergency, or when it is not practical to seek timely veterinary assistance. Advocacy groups argued that a defence would make the regulation too weak and difficult to enforce.</p> <p>Given that legitimate tail injuries occur, a defence has been provided to allow farmers to respond to acute accidental tail injuries. Under the defence the onus to prove that the tail was docked in response to an accidental injury rests with the person who docked the tail.</p> <p>The dairy industry has actively promoted this proposal for both welfare and trade reasons, however the prohibition may not be supported by all individual farmers. MPI and industry will work together to promote the regulation and ensure farmers have the information they need to be compliant.</p>

Appendix 2: Minor and Technical Amendments to the Animal (Care and Procedure) Regulations since 17 August 2017

Regulation	Amendment	Rationale
12: Muzzles on dogs	Inserted an extra 'exception' category to allow muzzles to be used when undertaking preventative care.	This will allow lay people to protect themselves from their dogs when performing preventative care.
13: Shelter requirements for dogs	Remove concept of 'through draft' and insert a requirement for ventilation.	Preventing 'through draft' was a large design constraint for shelters designed to provide cooling. The intent of the regulation is still covered by the requirement for shelter to protect an animal from 'extremes of heat and cold'. Stakeholders requested ventilation be inserted as an important qualifier to 'extremes of heat and cold'.
14: Dogs left in vehicles	Shade-seeking behaviour has been made the main symptom used to identify heat stress, with other symptoms becoming supporting factors.	Symptoms of heat stress and separation anxiety can be similar, so focussing on shade seeking helps differentiate the two. This was requested by the New Zealand Veterinary Association.
15: Dogs on moving vehicles	Excluded motorcycles and similar from the definition of motor-vehicle.	When dogs are being transported on motorbikes and other similar vehicles, it is safer for the dog to be un-tethered so it does not remain attached if a crash occurs.
18: Horses tethered for the purposes of grazing	Removed requirement for protection from precipitation.	Explicit mention of precipitation is considered unnecessary, it will be included in protection from 'extremes of heat and cold'. Removal improves clarity.
21: Phased prohibition on use of conventional cages	Removed the requirement to keep records.	Initially intended to compel record keeping to demonstrate when a system was installed and, hence, the applicable transition date. As this is a prosecutable offence this evidence would be procured through the normal prosecution processes. Therefore a specific requirement is unnecessary.
40: Restrictions on transporting lame animals	Different indicators of lameness developed for sheep and goats.	Sheep and goats display lameness differently from larger species such as cattle and the practicalities in managing and detecting lameness in sheep and goats are also different. The changes reflect these differences and are more operationally accurate.
41: Late Pregnancy	Included a requirement for owners and persons in charge of pregnant deer to have a system ensuring no deer in late pregnancy will be transported.	The regulation prohibits transporting hinds during the last 21 days of pregnancy. This reflects current practice and was requested by the deer industry. As an infringement offence a system to demonstrate that hinds are not transported in late pregnancy is required to make the regulation more enforceable.

Appendix 3: Recommending regulations that do not fully meet the obligations of the Act: section 183A

Section 183A of the Act allows regulations to be made that prescribe standards or requirements that do not meet all the obligations under the Act, provided certain statutory criteria are met. Regulation 21 allows conventional cages to continue to be used until 2022. Conventional cages do not fully meet the obligations of the Act.

Prior to recommending Regulation 21, the Minister must be satisfied that the criteria have been met. Detailed analysis of this criteria and how it has been met is set out in the table below:

Section	Criteria	Consideration
S183A(3)	<p>The Minister must be satisfied that:</p> <p>a) Any adverse effects of a change from current practices to new practices have been considered and there are no feasible alternatives currently available; or</p> <p>b) Not to recommend the regulation would result in an unreasonable impact on a particular industry sector within New Zealand, a sector of the public, or New Zealand's wider economy.</p>	<p>a) Regulation 21 requires a stepwise transition away from the use of conventional cages for layer hens with them completely phased out by 2022¹⁴. This is the date agreed by industry and NAWAC¹⁵ and reflected within the Layer Hens Code of Welfare as the date on which all conventional cages will cease to be used in New Zealand. The transition dates have been identified and agreed with industry in order to manage any adverse effects of the transition. These dates allow the majority of producers to see a return on their investment and removes the older cages from production first.</p> <p>b) Not allowing a transitional period would result in an unreasonable impact on New Zealand's layer hen industry, as well as a significant impact on the price and supply of eggs for the public.¹⁶ This is due to:</p> <ul style="list-style-type: none"> • the cost to change over a shorter time period would result in many egg producers going out of business; • the supply of eggs would severely decrease as New Zealand cannot import eggs; and • eggs are an important source of cheap protein for many New Zealanders, and the resulting increase in price would prevent many people from having access to eggs.

¹⁴ Conventional cages installed prior to 31 December 1999 must be phased out by 31 December 2018 and those installed prior to December 2001 must be phased out by 31 December 2020.

¹⁵ In 2013, after an extensive review of the Animal Welfare (Layer Hens) Code of Welfare 2012, NAWAC determined that the use of conventional cages did not provide adequate welfare for layer hens. NAWAC recommended a stepwise phase out of conventional cages to balance the welfare of layer hens with the time needed for producers to transition to other systems. The 2012 code of welfare was subsequently updated to incorporate the stepwise transition away from conventional cages.

¹⁶ These findings are drawn from economic analysis commissioned by MPI to aid the Layer Hens Code of Welfare Amendment: Nimmo Bell Economic analysis 2010 and; LECG Egg Market Dynamics investigation 2010.

<p>S183A(4)</p>	<p>In deciding whether an impact is unreasonable, the Minister must have regard to the welfare of the affected animals.</p>	<p>An immediate transition to colony cages would have longer term adverse animal welfare impacts on layer hens in New Zealand's industry. Immediately changing farming systems would not give farmers enough time to ensure appropriate staffing and stockmanship, and that their new farming systems and infrastructure are robust and meet the needs of their animals.</p> <p>A stepwise transition also has a net welfare benefit for layer hens in that it removes more birds from the oldest and least animal welfare friendly cages sooner than would otherwise happen if only a single date was chosen.</p>
<p>S183A(5)</p>	<p>The regulation must specify a period of time that:</p> <p>a) Is reasonably necessary to enable a transition from current practice to a practice which fully meets obligations under the Act to meet physical, health or behavioural needs; and</p> <p>b) Is no longer than 10 years.</p>	<p>a) The phased transition out of conventional cages by 31 December 2022 is reasonably necessary to enable a shift to other farming methods while minimising disruption to the industry and the overall supply of eggs in New Zealand.</p> <p>This is the transitional period agreed with industry and set out in the Layer Hen Code of Welfare.</p> <p>b) 31 December 2022 is within the 10 year time limit.</p>

Appendix 4: Recommending regulations relating to surgical and painful procedures: section 183B(2)

The following regulations relate to surgical and painful procedures:

- tail docking of cattle, pigs and dogs — Regulations 50, 51 and 52;
- castration of cattle, sheep, horses and pigs — Regulations 53, 54 and 55;
- removal of dogs' dew claws — Regulation 56;
- disbudding and dehorning cattle — Regulations 57 and 58; and
- prohibiting mulesing¹⁷ of sheep — Regulation 59.

Before recommending the making of these regulations, under section 183B(2) of the Act the Minister must have regard to:

- (a) whether the procedure has the potential to-
 - (i) cause significant pain or distress; or
 - (ii) cause serious or lasting harm, or loss of function, if not carried out by a veterinarian in accordance with recognised professional standards; and
- (b) the nature of the procedure, including whether this involves –
 - (i) a surgical or operative procedure below the surface of the skin, mucous membranes, or teeth or below the gingival margin; or
 - (ii) physical interference with sensitive soft tissue or bone structure; or
 - (iii) significant loss of tissue or loss of significant tissue; and
- (c) the purpose of the procedure; and
- (d) the extent (if any) to which the procedure is established in New Zealand; and
- (e) good practice in relation to the use of the procedure for animal management purposes or in relation to the production of animal products or commercial products; and
- (f) the likelihood of the procedure being managed adequately by codes of welfare or other instruments under the Act; and
- (g) any other matters the Minister considers relevant.

The following table sets out how each of these factors have been taken into account in relation to each of regulations 50 to 59 inclusive.

¹⁷ Mulesing is the removal of strips of wool-bearing skin from around the breech (buttocks) of a sheep to prevent flystrike.

Regulation 50: Docking cattle beasts' tails	
(a) Whether the procedure has the potential to: <ul style="list-style-type: none"> (i) cause significant pain or distress; (ii) cause serious or lasting harm, or loss of function, if not carried out by a veterinarian in accordance with recognised professional standards. 	<p>Tails are richly supplied with nerves and blood vessels so shortening or removing the tail has the potential to cause significant pain and distress.</p> <p>There is also evidence that tail docking has long-term effects on cattle welfare through increased levels of predation from biting flies.</p>
(b) The nature of the procedure, including whether this involves: <ul style="list-style-type: none"> (i) a surgical or operative procedure below the surface of the skin, mucous membranes, or teeth or below the gingival margin; or (ii) physical interference with sensitive soft tissue or bone structure; or (iii) significant loss of tissue or loss of significant tissue. 	<p>Tail shortening and removal interferes with sensitive soft tissue and bone.</p> <p>Tails are removed or shortened by either; placing a tight rubber ring on the tail, removing the tissue with a docking iron (hot iron cautery) or by surgical amputation.</p>
(c) The purpose of the procedure.	<p>The common rationale for this procedure is that it improves the comfort and health of milking personnel, and enhances udder and milk hygiene.</p> <p>The health of milking personnel, and enhanced udder and milk hygiene benefits are not generally supported by scientific evidence.</p>
(d) The extent (if any) to which the procedure is established in New Zealand.	Anecdotally less than 1 percent of the national herd is docked (the tail has been totally removed). However, it is estimated that 20 to 30 percent of the national herd have shortened tails.
(e) Good practice in relation to the use of the procedure for animal management purposes or in relation to the production of animal products or commercial products.	Switch trimming (clipping the hair on the lower part of the tail) provides a viable alternative to shortening and tail removal. Automated tail trimmers are now available that are more efficient than previous methods.
(f) The likelihood of the procedure being managed adequately by codes of welfare or other instruments under the Act.	A small number of farmers oppose the prohibition on docking cows' tails. If this ban were to be implemented only through minimum standards in codes of welfare, these farmers are unlikely to comply as codes of welfare do not contain direct offences and penalties.
(g) Any other matters the Minister considers relevant.	Internationally, docking is banned in Germany, Denmark, the United Kingdom and California. Some states in Australia only allow tails to be docked by veterinarians. Industry have advised that a prohibition on tail docking is likely to become a requirement to access some global supply chains.

Regulation 51: Docking dogs' tails	
<p>(a) Whether the procedure has the potential to:</p> <p>(i) cause significant pain or distress;</p> <p>(ii) cause serious or lasting harm, or loss of function, if not carried out by a veterinarian in accordance with recognised professional standards.</p>	<p>Tail docking in dogs has the potential to cause significant immediate pain and distress, and to cause chronic complications such as loss of tail function for communication and balance, and occasionally self-mutilation.</p>
<p>(b) The nature of the procedure, including whether this involves:</p> <p>(i) a surgical or operative procedure below the surface of the skin, mucous membranes, or teeth or below the gingival margin; or</p> <p>(ii) physical interference with sensitive soft tissue or bone structure; or</p> <p>(iii) significant loss of tissue or loss of significant tissue.</p>	<p>This procedure involves amputation of the tail by either immediate severing by a scalpel or clippers (with suturing as required), or by ligature, such as an elasticized band (tail banding).</p> <p>The procedure involves physical interference with sensitive soft tissue or bone, and either significant loss of tissue, or loss of significant tissue.</p>
<p>(c) The purpose of the procedure.</p>	<p>Routine tail docking in dogs is done by breeders of traditionally docked breeds for two reasons:</p> <ul style="list-style-type: none"> • to meet traditional breed standards; and • to prevent tail injuries.
<p>(d) The extent (if any) to which the procedure is established in New Zealand.</p>	<p>Tail banding in dogs is used extensively by a number of breeders of traditionally docked breeds, although it is not undertaken by all breeders of traditionally docked breeds.</p> <p>Routine non-therapeutic tail docking is not carried out by breeders or owners of other dog breeds in New Zealand, or in relation to most mixed breed dogs. In the context of all dogs in New Zealand, routine tail docking is relatively rare.</p>
<p>(e) Good practice in relation to the use of the procedure for animal management purposes or in relation to the production of animal products or commercial products.</p>	<p>Tail docking in dogs can cause both short and long term pain and distress. It is a significant surgical procedure that can only be justified if there are welfare benefits for the dog itself in carrying out the procedure.</p> <p>Dogs use their tails to communicate and for balance. Scientific evidence shows that pre-emptive tail removal is not necessary to prevent the significant majority of tail injuries. An independent report commissioned by MPI confirms that prohibiting the routine non-therapeutic tail docking of dogs will reinforce good practice in relation to the management of dogs in New Zealand.¹⁸</p>

¹⁸ Canine Tail Docking. Prepared for Ministry for Primary Industries by Dr Emily G Patterson-Kane (2017).

<p>(f) The likelihood of the procedure being managed adequately by codes of welfare or other instruments under the Act.</p>	<p>There is a significant level of resistance to the ban on docking dogs' tails amongst a small number of breeders of traditionally docked dogs' breeds. Minimum standards in codes of welfare cannot be directly enforced, and MPI knows that without the ability to take direct action to enforce the ban it will be disregarded. Codes of welfare in this case will not be sufficient to manage the ban.</p>
<p>(g) Any other matters the Minister considers relevant.</p>	<p>The practice has been banned by 30 other countries internationally. A limited reversal of the current ban in relation to gundogs in Scotland is insufficient to counter the factors weighing in favour of a ban in New Zealand.</p>

Regulation 52: Docking pigs' tails	
<p>(a) Whether the procedure has the potential to:</p> <ul style="list-style-type: none"> (i) cause significant pain or distress; (ii) cause serious or lasting harm, or loss of function, if not carried out by a veterinarian in accordance with recognised professional standards. 	<p>Tail docking of pigs at any age, if undertaken incorrectly or by unskilled persons has potential to cause significant and lasting pain to a pig. The potential to experience greater pain and distress increases with age, therefore tail docking standards have been split into two regulations, over/under 7 days of age.</p>
<p>(b) The nature of the procedure, including whether this involves:</p> <ul style="list-style-type: none"> (i) a surgical or operative procedure below the surface of the skin, mucous membranes, or teeth or below the gingival margin; or (ii) physical interference with sensitive soft tissue or bone structure; or (iii) significant loss of tissue or loss of significant tissue. 	<p>The procedure involves the significant physical interference with the pig's tail tissue and results in the amputation of the tail. The most common methods are amputation by sharp clippers, scalpel blades or cautery instruments.</p>
<p>(c) The purpose of the procedure.</p>	<p>Tail docking is undertaken to reduce instances of tail biting in older pigs that can cause serious injury. It can also be undertaken to treat existing injury or disease.</p>
<p>(d) The extent (if any) to which the procedure is established in New Zealand.</p>	<p>Tail docking pigs under 7 days, normally within 72 hours, is common established practice on commercial pig farms in New Zealand.</p> <p>Tail docking pigs over 7 days generally occurs where it is necessary to treat existing injury or disease. Under the pigs code of welfare, the procedure must be performed by a veterinarian and pain relief will usually be administered (but is not a requirement).</p> <p>A small group of outdoor farmers choose to dock pigs over 7 days for health and safety reasons, to avoid contact with aggressive sows when handling piglets. When this is the case, it is often undertaken by farmers using pain relief, rather than directly by a veterinarian.</p>
<p>(e) Good practice in relation to the use of the procedure for animal management purposes or in relation to the production of animal products or commercial products.</p>	<p>Competent persons undertaking the procedure using sharp and clean equipment in a manner that reduces any pain and distress caused to the animal. For pigs over 7 days the use of pain relief is considered good practice.</p>
<p>(f) The likelihood of the procedure being managed adequately by codes of welfare or other instruments under the Act.</p>	<p>The pigs code of welfare 2010 sets a minimum standard for elective husbandry procedures that requires that if pigs of 7 days of age or over are being tail docked, the procedure must be performed by a veterinarian. This standard is not directly enforceable. Placing this and new requirements relating to pigs under 7 days into a regulation will better ensure the standard is directly enforceable.</p>
<p>(g) Any other matters the Minister considers relevant.</p>	

Regulation 53: Castrating cattle beasts and sheep	
<p>(a) Whether the procedure has the potential to:</p> <ul style="list-style-type: none"> (i) cause significant pain or distress; (ii) cause serious or lasting harm, or loss of function, if not carried out by a veterinarian in accordance with recognised professional standards. 	<p>The testes and scrotum are richly supplied with nerves and blood vessels. Any modification to them has the potential to cause significant immediate pain that may last for several hours.</p> <p>The castration (including the shortening of the scrotum) of sheep and cattle is a common husbandry procedure routinely performed by non-veterinarians. There is no evidence to indicate a high number of poor welfare outcomes that may make it preferable for a veterinarian to perform the procedure.</p>
<p>(b) The nature of the procedure, including whether this involves:</p> <ul style="list-style-type: none"> (i) a surgical or operative procedure below the surface of the skin, mucous membranes, or teeth or below the gingival margin; or (ii) physical interference with sensitive soft tissue or bone structure; or (i) significant loss of tissue or loss of significant tissue. 	<p>The procedure involves physical interference with the scrotum and/or testes and results in the atrophy or amputation of significant tissue.</p> <p>The most common methods use a rubber ring or high tension band. Use of a knife or other sharp instrument is less common, and use of clamps is very rare.</p>
<p>(c) The purpose of the procedure.</p>	<p>Farm animals may be castrated, or their testes altered, to reduce aggression and facilitate management, or to restrict breeding, and also to achieve desirable meat and carcass quality attributes.</p>
<p>(d) The extent (if any) to which the procedure is established in New Zealand.</p>	<p>Castration is a common procedure performed on nearly every New Zealand sheep or beef farm raising young animals.</p> <p>The regulation allows current practice to continue.</p>
<p>(e) Good practice in relation to the use of the procedure for animal management purposes or in relation to the production of animal products or commercial products.</p>	<p>Good practice includes the use of castration for animal management and production reasons.</p> <p>It is good practice to perform routine castration in sheep and cattle as young as possible but between a couple of weeks and six months of age. There are also production and management reasons for castrating some older animals.</p> <p>It is good practice to avoid unnecessary castration for example where lambs achieve slaughter weight before reaching puberty.</p> <p>The management of entire bulls and rams requires specific farm systems to avoid other welfare issues such as increased fighting and injuries or inappropriate pregnancies.</p>

<p>(f) The likelihood of the procedure being managed adequately by codes of welfare or other instruments under the Act.</p>	<p>The procedure has been adequately managed by the Painful Husbandry Procedures Code of Welfare 2005 and the Act to date.</p> <p>However, the regulation is necessary to allow non-veterinarians to continue to perform this procedure after 2020 when the new significant surgical procedures criteria in the Act will come into force. By default the procedure would otherwise become a veterinarian only procedure.</p>
<p>(g) Any other matters the Minister considers relevant.</p>	

Regulation 54: Castrating horses	
<p>(a) Whether the procedure has the potential to:</p> <ul style="list-style-type: none"> (i) cause significant pain or distress; (ii) cause serious or lasting harm, or loss of function, if not carried out by a veterinarian in accordance with recognised professional standards. 	<p>The testes and scrotum are richly supplied with nerves and blood vessels. Any modification to them has the potential to cause significant immediate pain that may last for several hours.</p> <p>The castration of horses is usually performed on individual animals. Due to the size of the animals, the method, and the one-off nature of the procedure, horse castration should be performed by a veterinarian to manage the risk of complications causing serious or long lasting harm, or loss of function.</p>
<p>(b) The nature of the procedure, including whether this involves:</p> <ul style="list-style-type: none"> (i) a surgical or operative procedure below the surface of the skin, mucous membranes, or teeth or below the gingival margin; or (ii) physical interference with sensitive soft tissue or bone structure; or (i) significant loss of tissue or loss of significant tissue. 	<p>Horse castration is usually performed with a sharp instrument such as a scalpel. It involves physical interference with sensitive tissues and removal of the testes.</p>
<p>(c) The purpose of the procedure.</p>	<p>Horses may be castrated to reduce aggression, facilitate management, or to restrict breeding.</p>
<p>(d) The extent (if any) to which the procedure is established in New Zealand.</p>	<p>Castration of horses is common in New Zealand. People who raise horses are likely to have the majority of the colts castrated.</p> <p>While it is legally required that a veterinarian performs the procedure, there is some anecdotal evidence that some non-veterinarians also perform castrations illegally.</p>
<p>(e) Good practice in relation to the use of the procedure for animal management purposes or in relation to the production of animal products or commercial products.</p>	<p>Good practice includes the use of castration for animal management purposes. The management of entire stallions requires specific farm systems to avoid other welfare issues such as increased fighting and injuries or inappropriate pregnancies.</p>
<p>(f) The likelihood of the procedure being managed adequately by codes of welfare or other instruments under the Act.</p>	<p>Under the Act significant surgical procedures must be performed by a veterinarian or veterinarian student under direct supervision. Horse castration is a significant surgical procedure.</p> <p>Illegal horse castration in some rural communities was identified as an issue in 2006 and 2012. Animal welfare complaints about instances of illegal castration are still reported from time to time.</p> <p>A regulation will provide a much clearer signal that horse castration must be performed by a veterinarian. The regulation will also provide simpler tools where prosecution is appropriate.</p>
<p>(g) Any other matters the Minister considers relevant.</p>	

Regulation 55: Castrating pigs	
(a) Whether the procedure has the potential to: <ul style="list-style-type: none"> (i) cause significant pain or distress; (ii) cause serious or lasting harm, or loss of function, if not carried out by a veterinarian in accordance with recognised professional standards. 	Castration involves significant physical interference with the pig's testicles and surrounding tissue. This has potential to cause significant pain and distress if not undertaken by a veterinarian with pain relief.
(b) The nature of the procedure, including whether this involves: <ul style="list-style-type: none"> (i) a surgical or operative procedure below the surface of the skin, mucous membranes, or teeth or below the gingival margin; or (ii) physical interference with sensitive soft tissue or bone structure; or (iii) significant loss of tissue or loss of significant tissue. 	The most common castration method is surgical whereby the scrotum and membranes surrounding the testes are cut, the testes are removed from the scrotal sac and the vessels and structures travelling to the testes are severed by cutting, clamping or tearing. This results in significant physical interference with sensitive tissue and in loss of the testes.
(c) The purpose of the procedure.	In New Zealand the procedure is generally only undertaken for therapeutic purposes. In isolated situations it may be used as a method to manage the behaviour of boars expressing aggressive sexual behaviour. Internationally it is undertaken to meet demand for castrated meat, where removing the testes reduces "boar taint" caused by testosterone and androstenone.
(d) The extent (if any) to which the procedure is established in New Zealand.	It is common practice in New Zealand to manage boar taint using a vaccine rather than castration. Therefore this procedure is not routinely undertaken on commercial farms, unless for specific therapeutic purposes. Some lifestyle farmers may also undertake the procedure.
(e) Good practice in relation to the use of the procedure for animal management purposes or in relation to the production of animal products or commercial products.	Surgical castration of pigs at any age should be undertaken by a veterinarian using appropriate pain relief in the form of analgesic and / or local anaesthetic.
(f) The likelihood of the procedure being managed adequately by codes of welfare or other instruments under the Act.	The Animal Welfare (Pigs) Code of Welfare 2010 requires castration be undertaken by a veterinarian. It does not specify pain relief, and is not a directly enforceable standard. Therefore this standard is best managed through regulation.
(g) Any other matters the Minister considers relevant.	

Regulation 56: Removing dogs' first digits (dew claws) ¹⁹	
(a) Whether the procedure has the potential to: <ul style="list-style-type: none"> (i) cause significant pain or distress; (ii) cause serious or lasting harm, or loss of function, if not carried out by a veterinarian in accordance with recognised professional standards. 	Removing articulated ²⁰ dew claws can lead to infection and pain. Removing unarticulated dew claws can cause dogs to experience some degree of distress, however this is not clearly the case if the dog is under four days of age.
(b) The nature of the procedure, including whether this involves: <ul style="list-style-type: none"> (i) a surgical or operative procedure below the surface of the skin, mucous membranes, or teeth or below the gingival margin; or (ii) physical interference with sensitive soft tissue or bone structure; or (iii) significant loss of tissue or loss of significant tissue. 	<p>Removing an articulated dew claw involves removing bone structure and significant loss of tissue when the claw is articulated. In older animals, the dew claw becomes attached to the leg with muscle and bone, so more tissue and bone is removed than in young animals.</p> <p>In animals over four days of age, removal of a non-articulated dew claw involves significant loss of tissue and requires a surgical procedure below the surface of the skin.</p>
(c) The purpose of the procedure.	Dew claw removal in dogs is done to either meet traditional breed standards; or to prevent injuries to the dew claw.
(d) The extent (if any) to which the procedure is established in New Zealand.	MPI does not have numbers to indicate how common the practice of dew claw removal is in New Zealand. It is more common amongst some breeds than others.
(e) Good practice in relation to the use of the procedure for animal management purposes or in relation to the production of animal products or commercial products.	Because the procedure involves cutting through tendon and bone, removing front limb dew claws (which are almost always articulated), and articulated rear limb dew claws should be done by a veterinarian providing pain relief. People with appropriate training and competence are able to remove hind limb non-articulated dew claws when a puppy is under four days of age.
(f) The likelihood of the procedure being managed adequately by codes of welfare or other instruments under the Act.	The standard set by this regulation goes above the minimum standard set by the Animal Welfare (Dogs) Code of Welfare in 2010, and the new standard will not be directly enforceable if it remains in the code. To ensure compliance, this standard is best managed through regulation.
(g) Any other matters the Minister considers relevant.	Many vets are likely to refuse to perform dew claw removal as they see it as contravening their professional Code of Conduct. However, they do retain discretion to remove dew claws depending on the circumstances of the dog and owner.

¹⁹ 'Dew claw' is the common name for the first digit on a dog's limb. The term first digit is used in the veterinary community.

²⁰ Articulated dew claws are attached to the leg by bone and tendons. Non-articulated dew claws are attached to a flap of skin and tissue.

Regulation 57: Disbudding cattle beasts	
<p>(a) Whether the procedure has the potential to:</p> <ul style="list-style-type: none"> (i) cause significant pain or distress; (ii) cause serious or lasting harm, or loss of function, if not carried out by a veterinarian in accordance with recognised professional standards. 	<p>Disbudding a cattle beast involves the destruction of the free-floating immature horn tissue, in the skin layer, before it attaches to the skull, preventing horn development. Destruction of the immature horn tissue causes significant pain to an animal when performed without pain relief.²¹</p>
<p>(b) The nature of the procedure, including whether this involves:</p> <ul style="list-style-type: none"> (i) a surgical or operative procedure below the surface of the skin, mucous membranes, or teeth or below the gingival margin; or (ii) physical interference with sensitive soft tissue or bone structure; or (iii) significant loss of tissue or loss of significant tissue. 	<p>The most common method of disbudding involves pressing a very hot ring-shaped iron onto each horn bud for approximately 3-5 seconds²² so that it burns through the tissues that nourish the horn bud and thereby prevents the horn from developing. The other main method involves the use of chemicals, such as hydroxide or caustic paste, applied to the horn bud.</p> <p>It results in removal of significant tissue below the surface of the skin.</p>
<p>(c) The purpose of the procedure.</p>	<p>Disbudding is undertaken to prevent the growth of horns and therefore the need to dehorn an animal at a later stage.</p> <p>Horns are removed primarily for safety — to reduce the risk of injuries to other cattle and to humans, horses and dogs. Horns are also removed to managed damaged horns and allow animals to be in confined spaces safely, e.g. in feedlots and during transport.</p>
<p>(d) The extent (if any) to which the procedure is established in New Zealand.</p>	<p>In the dairy sector approximately 1.25 million replacement calves enter the dairy herd every year — the majority will be disbudded.</p> <p>The extent of disbudding in the beef sector is unknown. The majority of cattle breeds in the beef sector do not naturally grow horns and therefore do not need to be disbudded. However, approximately 1.25 million 'dairy' animals enter the beef sector annually — it is assumed that a large percentage of these animals will be disbudded.</p>
<p>(e) Good practice in relation to the use of the procedure for animal management purposes or in relation to the production of animal products or commercial products.</p>	<p>The Animal Welfare (Painful Husbandry Procedures) Code of Welfare 2005 recommends but does not require pain relief to be used for these types of procedures. At the time that the code was developed, the National Animal Welfare Advisory Committee signalled that they would consider making pain relief mandatory, within defined periods, for a wider range of procedures (such as disbudding) where pain relief was accessible, practical, effective and affordable.</p>

²¹ The Animal Welfare (Painful Husbandry Procedure) Code of Welfare 2005.

²² Operators may differ in the exact length of time the hot iron is applied.

	Options are available to minimise the pain experienced at the time of the disbudding. However, it is acknowledged that in some situations local anaesthetic will alleviate, but not eliminate, the pain caused by disbudding ^{23,24} .
(f) The likelihood of the procedure being managed adequately by codes of welfare or other instruments under the Act.	The use of pain relief for procedures such as disbudding have been promoted by both the National Animal Welfare Advisory Committee and dairy industry representative organisations. These avenues have been effective at increasing the percentage of the bovine dairy sector using pain relief to approximately 40 to 50 percent. But 50 to 60 percent of the sector still do not use pain relief for these procedures, and a code of welfare is unlikely to provide a strong enough incentive for some farmers to start using pain relief.
(g) Any other matters the Minister considers relevant.	Dairy NZ has advocated for regulatory measures around mandatory use of pain relief for dehorning, as they see it as an important factor in overseas market success.

²³ Stilwel G., Lima M.S., Carvalho R. C., and Broom D. M. 2012. Effects of hot-iron disbudding, using regional anaesthetic with and without caprofen, on cortisol and behaviour of calves. *Research in Veterinary Science* 92: 338-41.

²⁴ Stafford K. J., and Mellor D. J. 2011. Addressing the pain associated with disbudding and dehorning in cattle. *Applied Animal Behaviour Science* 135(3): 226-231.

Regulation 58: Dehorning cattle beasts	
<p>(a) Whether the procedure has the potential to:</p> <ul style="list-style-type: none"> (i) cause significant pain or distress; (ii) cause serious or lasting harm, or loss of function, if not carried out by a veterinarian in accordance with recognised professional standards. 	<p>The amputation of a horn causes significant pain to an animal when performed without pain relief²⁵.</p>
<p>(b) The nature of the procedure, including whether this involves:</p> <ul style="list-style-type: none"> (i) a surgical or operative procedure below the surface of the skin, mucous membranes, or teeth or below the gingival margin; or (ii) physical interference with sensitive soft tissue or bone structure; or (iii) significant loss of tissue or loss of significant tissue. 	<p>This is an invasive procedure which involves gouge wounds of the skull and some penetration of the frontal sinuses. This is an operative procedure resulting in significant loss of a significant amount of sensitive tissue.</p> <p>A variety of methods are used to dehorn an animal, including guillotine shears, a butcher's saw, embryotomy wire and dehorning scoopers (for horns on younger animals). Following amputation, the wound may also be cauterised to reduce bleeding and prevent infection.</p>
<p>(c) The purpose of the procedure.</p>	<p>Horns are removed primarily for safety—to reduce the risk of injuries to other cattle and to humans, horses and dogs. Dehorning is also used to remove damaged horns and allow animals to safely be in confined spaces, e.g. in feedlots and during transport.</p>
<p>(d) The extent (if any) to which the procedure is established in New Zealand.</p>	<p>The exact extent of dehorning across the bovine dairy and beef sectors is unknown.</p> <p>Dehorning is uncommon in the bovine dairy sector. Although approximately 1.25 million replacement calves enter the dairy herd every year the majority will have already been disbudded.</p> <p>In the beef sector dehorning is more common. However, the majority of cattle breeds in the beef sector do not naturally grow horns and therefore do not need to be disbudded or dehorned. While approximately 1.25 million 'dairy' animals (animals that do naturally grow horns) enter the beef sector annually it is assumed that a large percentage of these animals will have been disbudded and therefore do not need to be dehorned.</p>
<p>(e) Good practice in relation to the use of the procedure for animal management purposes or in relation to the production of animal products or commercial products.</p>	<p>The Animal Welfare (Painful Husbandry Procedures) Code of Welfare 2005 recommends but does not require pain relief to be used for these types of procedures.</p> <p>However, at the time that the code was developed, the National Animal Welfare Advisory Committee signalled that they would consider making pain relief mandatory, within defined periods, for a wider range of procedures (such as dehorning) where pain relief was accessible, practical, effective and affordable.</p>

²⁵ The Animal Welfare (Painful Husbandry Procedure) Code of Welfare 2005

<p>(f) The likelihood of the procedure being managed adequately by codes of welfare or other instruments under the Act.</p>	<p>The use of pain relief for procedures such as dehorning has been promoted by the National Animal Welfare Advisory Committee within existing codes of welfare. The extent of pain relief used for dehorning is unknown.</p> <p>Experience with voluntary uptake of pain relief for disbudding indicates that while some operators will use pain relief voluntarily, regulatory measures are required if pain relief is to be used across the entire sector.</p>
<p>(g) Any other matters the Minister considers relevant.</p>	<p>Dairy NZ has advocated for regulatory measures around mandatory use of pain relief for dehorning, as they see it as an important factor in overseas market success.</p>

Regulation 59: Prohibition on mulesing sheep	
<p>(a) Whether the procedure has the potential to:</p> <ul style="list-style-type: none"> (i) cause significant pain or distress; (ii) cause serious or lasting harm, or loss of function, if not carried out by a veterinarian in accordance with recognised professional standards. 	<p>Mulesing is the removal of the breech, tail skin folds or tail skin wrinkles of a sheep.</p> <p>Mulesing causes significant pain and distress.</p>
<p>(b) The nature of the procedure, including whether this involves:</p> <ul style="list-style-type: none"> (i) a surgical or operative procedure below the surface of the skin, mucous membranes, or teeth or below the gingival margin; or (ii) physical interference with sensitive soft tissue or bone structure; or (iii) significant loss of tissue or loss of significant tissue. 	<p>The most common method of mulesing is surgical removal. Mulesing can also be performed by inserting chemicals into the breech, folds or wrinkles. The chemicals break down protein in the skin and cause the skin to form a scab. Clamps on the skin can also be used to kill nerve endings and prevent wool from growing in the area.</p> <p>Mulesing interferes with sensitive soft tissue.</p>
<p>(c) The purpose of the procedure.</p>	<p>This procedure is undertaken to reduce the risk of flystrike. Flystrike is an infestation of the body where blowflies lay eggs on the skin. When the maggots hatch, they eat the sheep's flesh causing wounds. Wounds can become severe and infected, and may result in the animal's death.</p> <p>Removing the breech, tail skin folds and tail skin wrinkles, that grow wool and retain faeces and urine which attract flies, reduces the incidents of flystrike.</p>
<p>(d) The extent (if any) to which the procedure is established in New Zealand.</p>	<p>The New Zealand Merino Industry adopted a voluntary ban on surgical mulesing in December 2010. Anecdotally, there are a very small number of people who perform this procedure.</p>
<p>(e) Good practice in relation to the use of the procedure for animal management purposes or in relation to the production of animal products or commercial products.</p>	<p>This practice is not necessary as alternatives are available including:</p> <ul style="list-style-type: none"> • ensuring shearing and crutching are timed to reduce flystrike • effective tail docking (where required) • strategic application of preventative chemical treatments to prevent flystrike • effective control of scouring (diarrhoea) and intestinal worms • regular inspection of the flock to detect issues early • genetic improvements to breed sheep with fewer wrinkles and dags, less urine stain and less wool around the breech.
<p>(f) The likelihood of the procedure being managed adequately by codes of welfare or other instruments under the Act.</p>	<p>Anecdotally there are only a very small number of farmers who continue to mules their sheep. These farmers are unlikely to comply with a minimum standard in a code of welfare as they do not contain direct offences and penalties.</p>

(g) Any other matters the Minister considers relevant.	NZ Merino have advocated for a regulatory ban on mulesing, which they see as an important factor in avoiding reputational risk and overseas market success.
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Appendix 4: Stakeholders consulted and involved in the development of the regulations

Advocateship for Purebred Dog Breeders
Alpaca Association NZ
ANZCO Foods
Aquaculture New Zealand
AsureQuality
Beef + Lamb New Zealand
Dairy Companies Association of New Zealand
Dairy Goat Co-operative
Dairy NZ
Deer Industry New Zealand
Dogs New Zealand (formerly the New Zealand Kennel Club)
Egg Producers Federation of New Zealand
Farm to Processor Animal Welfare Forum
Federated Farmers of New Zealand
Fonterra
Helping You Help Animals (HUHA)
Landcorp New Zealand
Meat Industry Association
New Zealand Animal Law Council
National Animal Welfare Advisory Committee
National Animal Ethics Advisory Committee
New Zealand Anti-Vivisection Society
New Zealand Companion Animal Council
New Zealand Gundog Trials Association
New Zealand Equine Health Association
New Zealand Llama Association
New Zealand Merino
New Zealand Pork
New Zealand Riding for the Disabled
New Zealand Rodeo Cowboys Association
New Zealand Seafood Industry Council
New Zealand Cat Fancy Inc
New Zealand Council of Docked Breeds
New Zealand Greyhound Racing
New Zealand Institute of Primary Industries Management
New Zealand Rock Lobster Council
New Zealand Stock and Station Agents Association

New Zealand Veterinarians Association (including Dairy Cattle, and Sheep and Beef Cattle branches)
Veterinary Council of New Zealand
Petfood Manufacturers Association
PGG Wrightson
Poultry Industry Association New Zealand
Road Transport Forum New Zealand Inc.
Royal Agriculture Society
Save Animals from Exploitation (SAFE)
Sheep Dairy New Zealand
SPCA New Zealand
The New Zealand Animal Law Association
Ultrascan
World Animal Protection New Zealand
Zoo and Aquarium Association

A number of individual farmers, technicians, veterinarians, processors, transporters, holders of Codes of Ethical Conduct, animal ethics committees and targeted councils were also consulted.