

Response to the Welfare of Animals at the Time of Killing (England) Regulations 2015 Post Implementation Review, January 2021

By Paula Sparks, Chairperson, UK Centre for Animal Law

"We have a long history of detailed rules to protect animals when they are killed or slaughtered, including the recent introduction of mandatory CCTV in slaughterhouses. Following our recent review of the welfare at slaughter legislation, we will be considering what further welfare at slaughter improvements should be made."

- DEFRA Action Plan for Animal Welfare, p.13

What is this review and why has it been carried out?

Council Regulation (EC) No. 1099/2009 on the protection of animals at the time of killing ('the EC regulation') is implemented and enforced in the UK by the Welfare of Animals at the Time of Killing (England) Regulations 2015 ('WATOK'). It continues to remain in force until the end of the transition period and will then become retained law under the European Union (Withdrawal) Act 2018.

Regulation 46 of WATOK requires a review to be carried out five years after the regulations came into force. The government was therefore under a statutory duty to publish a report by 5th November 2020.

The review requires the government broadly to consider the objectives (that the requirements of the EU Regulation are being met and there is no overall reduction in the existing animal welfare

standards) to be achieved by the EU Regulation, whether those objectives are achieved, if those objectives remain appropriate and, if so, the extent to which they could be achieved in a less burdensome way; and how they are enforced.

National rules going beyond the EU Regulation

The EU regulation (Article 26) permitted Member States to retain existing national rules, that were stricter than the Regulation. Schedules 1-4 of WATOK set out the stricter national rules that apply in relation to (i) slaughterhouses, (ii) killing animals other than in a slaughterhouse, (iii) killing animals in accordance with religious rites and (iv) killing animals other than those to whom the EU Regulation applies.

We highlight two of those areas which concern matters of legislative reform that A-LAW has considered: species outside the EU regulation and killing in accordance with religious rites:

(1) Species not covered by the EU Regulation, but protected under existing national law (for example, crustaceans and decapods)

The review simply notes that 'There are calls from welfare non-government bodies for decapods and cephalopods to be considered sentient creatures and thus subject to animal welfare rules. Sentience is beyond the scope of this review, however any animals which are kept for food production and which are capable of feeling pain, distress or suffering are already protected under WATOK (see in particular paragraph 4 of Schedule 4).'

A-LAW comments: in our view this is weak. Whilst WATOK, paragraph 4, schedule 4 extends a general level of protection from avoidable pain, distress and suffering at the time of killing, it lacks detailed guidance¹ and it is unclear if it is enforced properly or at all. The review fails to grapple with this issue.

(2) Killing and religious rites

¹ A-LAW raised this with the Food Standards Agency when responding to a consultation into Revision of the Guidance for the Home Slaughter of Livestock in England and Wales. See the Summary Report of Stakeholders Responses, Page 12 - https://www.food.gov.uk/sites/default/files/media/document/consultation-responses-revision-of-the-guidance-for-the-home-slaughter-of-livestock_1.pdf



The EU Regulation permits animals to be slaughtered without pre-stunning if religious rites require killing by a religious method and the slaughter takes place in a slaughterhouse. The review notes that the percentage of poultry killed without stunning (including 'broiler' chickens stunned with non-Annex 1 stun parameters) has risen from 4% in 2011 to 10% in 2018 and sheep from 10% in 2011 to 25% in 2018, while over the same period non-stun cattle has fallen from 3% to 1% in England and Wales [FSA Survey Reports].

The review highlights concern about non-stun slaughter:

'A number of stakeholders have reiterated to us long held views that slaughter without pre-stunning should be banned. But in the absence of such a ban have suggested actions such as requiring an immediate post-cut stun for cattle, sheep, goats and deer; ensuring supply is not in excess of local demand; ending the export of meat from non-stunned animals; ensuring greater transparency of data regarding ani-

mals slaughtered without stunning; introducing method of slaughter labelling; and introducing assurances for religious communities about recoverable stunning practices.' [para. 161].

'There have been calls for government to tighten the intention that meat from non-stun religious slaughter be destined for religious markets and not the general consumer. Religious slaughter must be performed by a Jew or Muslim who holds a licence to slaughter animals by the Jewish or Muslim method for the food of Jews or Muslims respectively. The Government would expect the industry to provide consumers with information on which to make an informed choice about their food. It has been suggested by stakeholders that this will require compulsory labelling and supply and demand requirements for meat from non-stun slaughter.' [para 168].

A related issue is that WATOK in England does not require the detailed parameters for stunning set out in Annex 1 of the EC Regulation for religious slaughter. By contrast, the equivalent legislation in Scotland, Wales and Northern Ire-

land does require adherence to Annex 1. The review notes that according to the Food Standards Agency survey of slaughter methods (2018) revealed around 1,000,000 birds were stunned with electrical parameters outside those required in Annex 1, during one week.

The Animal Welfare Committee recommends:

- 'Applying parameters from Annex I of 1099/2009 for stunned Halal slaughter to avoid ineffective stunning (WATOK)
- Tightening the intention that meat from non-stun religious slaughter be destined for religious markets and not the general consumer, which might also bring in labelling and supply and demand requirements for meat from non-stun slaughter.
- Re-examining the standstill times before further movement/processing after the neck cut to reflect the science, particularly for bovines (WATOK);
- Animals that do not become unconscious following a neck cut should be subject to a post cut intervention stun. This would preferably be immediately after the cut, but if this should not prove possible then a stun should be mandated if bleed out was not causing unconsciousness in a reasonable time (WATOK).'

A-LAW comments: In written submissions to the Environment, Food and Rural Affairs Committee's inquiry into Public Sector Procurement of Food (dated 27.08.2020), A-LAW raised similar concerns about the wide interpretation of the EU regulation to enable non-stun slaughter methods for the export market and for public sector catering markets and to create a single supply chain for a diverse population.

A-LAW also has concerns about the exemption in England from the detailed parameters for stunning set out in Annex 1 of the EU regulation. Inadequate stunning risks immobilizing birds, but not rendering them unconscious or insensible to pain. Gudrun Ravetz, senior vice-president of the BVA in 2018 states: 'The lack of evidence-based parameters for waterbath stunning of poultry means English regulations are simply not fit for purpose and could call into question our claim as a leader in high animal welfare.' Quoted Independent, Sunday 18 March 2018 13:09.²

² <https://www.independent.co.uk/environment/chickens-slaughterhouses-effective-stunning-england-wales-animals-rights-uk-a8221591.html>

Suggestions for improvement

The review provided an opportunity for stakeholders to identify improvements to legislation protecting the welfare of animals at the time of killing. Some of the key areas raised by stakeholders:

(1) Electrical waterbath stunning of poultry:

Stakeholders, scientific committees (including the European Food Safety Authority (EFSA)) and researchers point to welfare problems associated with inversion and shackling of live birds for electrical waterbath stunning and there have been calls for a ban. EFSA recommendations to phase out electrical water baths across Europe have not been acted upon due to economic considerations. Defra pointed to research co-funded with CIWF into upright head only stunning of poultry and to other suggestions, including further guidance on electrical waterbath stunning parameters.

(2) Gas stunning of pigs: 86% of pigs in England and Wales were stunned with high concentrations of CO₂ in 2018. This is an increase from 50% in 2013. The review acknowledges that in 2003 the Farm Animal Welfare Committee (FAWC) recommended that high concentrations of CO₂ should be phased out within 5 years and in 2004 the EFSA recommended that gas used to induce unconsciousness should be non-aversive. A Defra sponsored study into low atmospheric pressure stunning did not show an improvement in animal welfare and the review states that conversely, it 'has heightened concern about the current use of high CO₂ in stunning pigs.' The review suggests that this 'is an area we need to consider further in terms of research into alternative systems for stunning pigs.'

(3) Slaughter of farmed fish: The review highlights that the EU Regulation only provides a general level of protection for farmed fish from avoidable pain, distress and suffering and there are no detailed protections. This is despite a FAWC opinion in 2014 on the welfare of farmed fish at the time of killing, which made recommendations for detailed protections and, as the review acknowledges, 'even drafting a table of recommended stunning and slaughter methods for different farmed fish species.' The review

[mal-rights-uk-a8221591.html](https://www.independent.co.uk/environment/chickens-slaughterhouses-effective-stunning-england-wales-animals-rights-uk-a8221591.html)

notes that in 2018 the European Commission produced a report on stunning and slaughter in farmed fish, but declined to introduce new legislation, relying instead on codes of practice. The Animal Welfare Committee and stakeholder animal welfare groups are amongst those calling for detailed provisions for farmed fish at slaughter.

The Animal Welfare Committee recommends that 'Farmed fish should have specific protections for them under welfare at slaughter legislation.'

A-LAW comment: in each of these areas (methods of farmed fish, electric waterbath stunning of poultry and high concentrations of CO2 in pigs), the legislation fails to reflect the best available animal welfare science. The evidence suggests that largely the scientific advice has not been followed due to economic concerns, rather than any dispute with the science. The government has failed to follow recommendations from its own scientific advisory body, as have successive governments in the past.

Miscellaneous

We note that at paragraph 27, the evidence cited for dropping the 'stunning out of sight' requirement for sheep and pigs is based upon studies published in 1996 and 1997 respectively. We are surprised that no more recent research is cited. At paragraph 86, we note that this case³ has now been decided in the Supreme Court and the strict liability of the nature of the offence has been upheld.

Offences, penalties and enforcement

The review highlights the recommendation of the Animal Welfare Committee that WATOK penalties for causing avoidable pain, distress or suffering should be increased to a maximum custodial term of 5 years, bringing it in line with anticipated changes to offences under the Animal Welfare Act 2006. [para 175].

In relation to enforcement generally, the review also highlights that 'The Animal Welfare Committee would also like to see strengthened en-

forcement by the relevant enforcement bodies on existing welfare problems identified at slaughter and killing (e.g. animals unfit to travel; dead on arrival; injuries in catching, transport and at slaughterhouses; transported in the late stages of pregnancy; thermal stress in transport/lairage and overstocking; lack of water; handling issues in slaughterhouses; ineffective stunning/bleeding).'

A-LAW comment: A-LAW supports increased sentencing powers for WATOK offences. Sentencing provisions for animal welfare offences are currently out of kilter with public expectations and the sentencing regime in general. A-LAW also supports the observations made in relation to enforcement and enforcement mechanisms.

Conclusions and next steps

The review notes that it is an objective of the government to 'actively seek animal welfare improvements and be a world leader in animal welfare standards.'

In relation to possible future action, the report notes:

'There have also been a number of suggestions from stakeholders submitted in the course of this review that might lead to future improvements in legislation on the welfare of animals at the time of killing (see also paragraphs 192-220). The post implementation review recommends the "retain" option for the WATOK regulations, but the Government will consider these issues and suggestions for improvements to the legislation in the course of its policy development.'

A-LAW comment: We would like to see the government act upon the recommendations made by stakeholder animal welfare groups and others for legislative reform to ensure that animals are properly protected at the time of killing. The review highlights a number of areas where the law does not reflect scientific advice and animal welfare is undisputedly compromised as a result.

3 R (on the application of Highbury Poultry Farm Produce Ltd) (Appellant) v Crown Prosecution Service (Respondent) [2020] UKSC 39