

Chair
Cabinet

Approval of Animal Welfare (Calves) Regulations 2016, Animal Welfare (Export of Livestock for Slaughter) Regulations 2016 and Animal Welfare Amendment Act (No 2) 2015 Commencement Order 2016.

Proposal

1. I seek Cabinet approval to submit to the Executive Council:
 - Animal Welfare (Calves) Regulations 2016;
 - Animal Welfare (Export of Livestock for Slaughter) Regulations 2016; and
 - Animal Welfare Amendment Act (No 2) 2015 Commencement Order 2016.

Executive summary

2. The Animal Welfare Act 1999 was amended in 2015 to improve its transparency, clarity and enforceability. One of the major changes to the Act was the creation of powers to make animal welfare regulations.
3. In April and May 2016, the Ministry for Primary Industries (MPI) consulted on a wide range of proposals for new animal welfare regulations. I am now seeking Cabinet approval to make the first two sets of regulations based on those proposals. These cover the welfare of young calves (primarily including bobby calves) and, separately, live animal exports.
4. Cabinet approval of the Animal Welfare (Calves) Regulations 2016 is required by 25 July 2016. I am also seeking Cabinet's agreement to waive the 28 day rule that ordinarily applies in order to have four of the seven regulations in effect by 1 August 2016.
5. On 10 June 2016 I announced my intention to implement these regulations in August and informed representative groups of the regulated parties to enable them to begin preparing for the new rules that will come into effect.
6. Cabinet approval of the Animal Welfare Amendment Act (No 2) 2015 Commencement Order 2016 is sought to bring into force new provisions of the Animal Welfare Act 1999 (the Act). These provisions will enable the Director-General of MPI to require exporters to provide reports on the welfare of exported animals both during their journey and for up to 30 days after their arrival in the importing country.
7. To realise the benefits of these provisions I am seeking approval to bring them into force on 25 August 2016, rather than waiting for them to commence automatically in 2020.

8. I am also seeking approval to make the Animal Welfare (Export of Livestock for Slaughter) Regulations 2016. These regulations maintain the Government's conditional prohibition on the export of livestock for slaughter and will need to be in force by 21 December 2016.
9. Due to the need to progress regulations relating to young calves by the beginning of August, I am seeking legislative approval for both sets of regulations direct from Cabinet, rather than going through the Cabinet Legislation Sub-Committee, which is not meeting before the end of July.

Background

10. The Animal Welfare Act 1999 (the Act) was amended in 2015 to enhance the enforceability, transparency and clarity of the Act. One of the major changes to the Act was the creation of powers to make animal welfare regulations.
11. Public consultation on a set of 91 animal welfare regulatory proposals covering live animal exports, care of and conduct towards animals, and surgical and painful procedures took place from 14 April to 19 May 2016.
12. I am now seeking Cabinet approval to make the first two sets of regulations based on those proposals. These cover the welfare of young calves (primarily including bobby calves) and, separately, live animal exports.
13. Due to the need to deliver a number of the regulations to protect the welfare of young calves before the bulk of the spring calving season in August 2016, Cabinet delegated authority to approve regulatory policy in relation to young calf welfare to four Ministers: the Minister for Regulatory Reform, the Minister of Justice, the Minister for Primary Industries and the Associate Minister for Primary Industries (EGI Min 16-0048 refers). This group approved the policy for these regulations on 1 June 2016 (B 16-0356).
14. Regulatory policy in relation to live animal exports was approved when the Act was amended in 2015.

Welfare of calves

15. The welfare of bobby calves has had a particularly high public profile since the TVNZ *Sunday* programme released footage in November 2015 of calves being seriously mistreated. Two sets of charges have been laid in relation to some of the activity in that footage and further investigations are continuing.
16. MPI has been working with major stakeholder organisations¹ since 2008 to help improve education about what good practice is in relation to bobby calves and to help people put this into action. As a result of this work, the proportion of bobby calves that died prematurely (in transit or in lairage²) has declined from 0.68 percent in 2008 to 0.25 percent in 2015.

¹ This includes setting up, in November 2015, the Bobby Calf Action Group, which includes MPI, the Dairy Companies Association of New Zealand, DairyNZ, the Road Transport Forum, the Meat Industry Association, Federated Farmers, the New Zealand Veterinary Association and the New Zealand Petfood Manufacturers Association.

² Lairage is a place where cattle or sheep may be rested on the way to market or slaughter.

17. Nonetheless, 0.25 percent represents a significant number of animals. In 2015, approximately 2.17 million bobby calves were presented for processing; 0.25 percent of that number equates to 5,390 calves. The regulations I am proposing will help to further reduce this number by ensuring that good standards of practice that are already common for most practitioners become statutory requirements for across all parts of the industry.
18. The proposed regulations will apply to all “young calves”, which are defined as bovines up to 14 days of age that have been separated from their mothers. This means they will cover calves of this type in the beef industry as well as bobby calves in the dairy industry. MPI considers that the welfare requirements of these calves are the same, regardless of the industry of which they are a part.
19. One regulation, in relation to the use of killing by blunt force to the head, will apply to all calves, not just those up to 14 days of age that have been separated from their mothers.
20. To ensure that several of the regulations are in place by 1 August 2016 (in time for the bulk of the 2016 spring calving season) Cabinet agreed to delegate authority to approve young calf regulatory policy to a small group of Ministers. Ministers delegated were: the Minister for Regulatory Reform, the Minister of Justice, the Associate Minister for Primary Industries, and myself (EGI Min 16-0048 refers).
21. On 1 June 2016 this group of authorised Ministers agreed the policy in relation to seven regulatory proposals to improve the welfare of young calves (BN 16-0356 refers). In accordance with the policy agreed I now seek approval to make seven regulations as follows:
 - i. Require that a young calf must be at least four full days of age before it is transported for sale or slaughter or as a result of sale. The calf must also display certain physical characteristics, including the ability to stand and walk and freedom from disease.
 - ii. Prohibit the killing of any calves (not just young calves) by blunt force to the head except in circumstances where: (a) the calf is in severe pain and distress and requires immediate humane destruction; and (b) there is no reasonably practicable alternative to the use of blunt force.
 - iii. Set a maximum duration of 12 hours journey time for young calves that are being transported.
 - iv. Prohibit the transportation of young calves by sea across the Cook Strait.
 - v. Require that young calves must be slaughtered as soon as possible after arriving at a slaughter premises. If it is not possible to slaughter a calf within 24 hours of its last feed on farm it must be fed again then slaughtered as soon as possible thereafter. (Limit down from 30 to 24 hours.) (Delayed commencement until 1 February 2017.)
 - vi. Require loading and unloading facilities be provided when young calves are transported for sale or slaughter or as a result of sale. This will apply to vehicles with a loading height of 90 centimetres or higher. There will also be a requirement that persons in charge of young calves at loading and unloading take all reasonable steps to use the facilities that are provided (delayed commencement until 1 August 2017).

- vii. Require that suitable shelter be provided for young calves before and during transportation and at points of sale and slaughter (delayed commencement until 1 August 2017).
- 22. Parliamentary Counsel Office (PCO) has drafted the attached Animal Welfare (Calves) Regulations 2016 on this basis.
- 23. Further information about each of these proposed regulations, including the policy rationale and penalties, is provided in the table set out in Appendix A.
- 24. An A3 that illustrates the full suite of activities undertaken to protect bobby calf welfare, including the development of new regulations, is also provided in Appendix B.

Offences and penalties

- 25. The new regulations set out offences and penalties which will be subject to strict liability. This means that the prosecution only needs to prove the prohibited conduct, it is not necessary to prove that the defendant intended to commit the offence.
- 26. This approach is consistent with existing provisions in the Act which create strict liability offences for owners or people in charge of animals who fail to ensure that the physical, health and behavioural needs of their animals are met, or fail to ensure that an ill or injured animal receives treatment; and for any person who ill-treats an animal.
- 27. Two of the proposed regulations carry infringement fees for non-compliance. Infringement fees are suitable for relatively low-level offending where breach can be proven by a straightforward application of the facts.
- 28. The remaining calf regulations are not suitable as infringement offences because of the varied circumstances in which the regulations will apply or the potential degree of harm that could be caused to sometimes large numbers of animals. These regulations instead carry prosecutable offences.
- 29. The maximum level of fine for each prosecutable offence will vary depending on the potential level of harm that may occur in cases where the regulations are breached. MPI has discussed and agreed these offences and penalties with the Ministry of Justice.
- 30. Details of each of the offences and penalties are set out in Appendix A.
- 31. For those regulatory offences that will be enforced by prosecution, the new regulations provide a defence if the defendant can show that they took all reasonable steps to comply with the relevant provision. This is consistent with defences provided for in relation to strict liability offences already established under the Act.

32. No defences are provided for infringement offences relating to the age of the calf and the fitness of the calf for transportation because it is not usual practice to provide defences for infringement notices. Any person wishing to challenge an infringement notice may do so by writing to the issuing authority asking for the notice to be cancelled; or by requesting a formal hearing before the District Court.

Enforcement

33. The majority of calves will come from commercial farms. Enforcement of the regulations will therefore primarily be undertaken by MPI officials holding animal welfare warrants - this includes animal welfare inspectors and veterinarians. The Royal New Zealand Society for the Prevention of Cruelty to Animals (RNZSPCA) will enforce the regulations in relation to the small number of calves on lifestyle blocks. Enforcement action by the RNZSPCA will be controlled by the RNZSPCA National Inspectorate.
34. A series of training workshops are being run with MPI enforcement staff around New Zealand to inform them about the new regulations and the intended approach to enforcement. MPI Verification Services' Animal Welfare Procedure for Calves – the key guidance document for MPI's enforcement staff – has also been updated to include information about how the regulations should be used in practice.
35. Over the coming year, MPI is planning to visit a minimum of 1,200 farms around the country to verify compliance with animal welfare requirements. These will include at least 300 dairy farms. The majority of dairy farm audits will be targeted at those dairy farms where animal welfare issues have been identified for calves supplied to meat processing premises.
36. Measures have also been put in place to conduct investigations and autopsies on 100 percent of calves that are dead or condemned for welfare reasons prior to slaughter. The investigations/ autopsies will be carried out by MPI veterinarians who are already present at meat works. Follow-up action, including enforcement of calf regulations, will be taken where the investigation reveals any animal welfare concerns.

Regulatory Impact Analysis

37. A Regulatory Impact Statement (RIS) has been completed and is attached at Appendix C. The RIS is provided for Cabinet consideration at this stage because it was not possible to complete it prior to consideration of the policy proposals behind these regulations by the Ministerial Group in June.
38. The Regulatory Impact Statement finds that:
- Four of the regulations (covering fitness for transport, blunt force trauma, maximum journey time and travel across the Cook Strait) primarily make current minimum standards and good practice guidelines enforceable. They are expected to have little impact on farmers and transporters who already follow good practice. There is therefore no reason to delay bringing these regulations into force.

- The regulation relating to the maximum period of time between last feed and slaughter will have some impact on the business processes of meat processing companies, who will now need to slaughter young calves as soon as possible after they arrive at a processing plant. A delayed commencement date of six months is sufficient to enable processors to make the necessary changes to business processes and contracts of supply.
- The regulations relating to shelter and the provision and use of loading facilities will require some farmers, transporters, stock and station agents and meat processors to invest in new or upgraded facilities. The impact of these rules will be mitigated by the 12 month delay in commencement, enabling regulated parties to spread their costs over time.
- Overall, the regulations deliver significant benefits to the welfare of young calves, the reputation of the dairy industry within New Zealand, and New Zealand's wider trade reputation in international markets. It is considered that these benefits justify the costs that have been identified.

39. MPI's Regulatory Impact Assessment Review Panel has reviewed the regulatory impact statement and considers that the information and analysis summarised in the RIS meets the quality assurance criteria.

Delayed commencement of three regulations

40. For the reasons noted above, I seek Cabinet's approval to bring the following three regulations into force with delayed commencement dates:
- Require that young calves must be slaughtered as soon as possible after arriving at a slaughter premises. If it is not possible to slaughter a calf within 24 hours of its last feed on farm it must be fed then slaughtered as soon as possible thereafter. Limit down from 30 to 24 hours. (Delayed commencement until 1 February 2017).
 - Require loading and unloading facilities be provided (for heights over 90 centimetres) when young calves are transported for sale or slaughter, or as a result of sale, and that all reasonable steps are taken to use those facilities. (Delayed commencement until 1 August 2017).
 - Require that suitable shelter be provided for young calves before and during transportation and at points of sale and slaughter. (Delayed commencement until 1 August 2017).

Waiving the 28 day rule to fast-track four regulations

41. I want to bring the remaining four regulations into effect on 1 August 2016, in time for the bulk of the 2016 spring calving season:
- Require that a young calf must be at least four full days of age before it is transported for sale or slaughter or as a result of sale. That calf must also display certain physical characteristics, including the ability to stand and walk and freedom from disease.
 - Set a maximum duration of 12 hours journey time for young calves that are being transported.
 - Prohibit the killing of any calves by blunt force trauma except in emergency circumstances.

- Prohibit the transportation of young calves by sea across the Cook Strait.
42. It is a general requirement of Cabinet that legislative instruments must not come into force until at least 28 days after they have been notified in the New Zealand Gazette. However, waiver of the 28 day rule is permissible in circumstances where the 28 day delay would be contrary to the purposes of the regulations.
 43. I believe that it is important, and in line with public expectations, that the Government take steps to put in place regulations that will act to safeguard the welfare of as many young calves as possible as swiftly as possible.
 44. On 10 June 2016 I announced my intention to implement these four regulations on 1 August and informed representative groups of the regulated parties to enable them to begin preparing for the new rules that will come into effect.
 45. I therefore ask that Cabinet waive the 28 day rule for these four regulations.

Consultation

46. Section 184(1) of the Act requires that I must consult, to the extent that is reasonably practicable, having regard to the circumstances of the particular case, the persons I have reason to believe are representative of interests likely to be substantially affected by the proposed regulations before deciding whether to recommend the regulations to the Executive Council.
47. Two workshops were held in February 2016 to discuss young calf welfare. Workshop attendees included industry representatives, veterinarians and animal advocacy groups. A number of individual farmers, processors and transporters also attended. A significant degree of consensus was reached at the workshops as to what the regulations should cover.
48. In April 2016, MPI Discussion Paper No: 2016/12 “Proposed Animal Welfare Regulations (Care and Conduct and Surgical & Painful Procedures) was released seeking public submissions on proposals. The proposed young calf regulations reflected the discussion at the February workshops.
49. Five weeks were provided for comments to be submitted on the proposed changes, which ran from 14 April to 19 May 2016. MPI received 120 written submissions containing comments relating to the proposals for young calves.
50. During the consultation period six public meetings were held across the country. Two further workshops took place in early May, one with advocacy groups³ and one with industry groups.⁴

³ Advocacy groups at the workshop included Save Animals from exploitation (SAFE), the National Animal Welfare Advisory Committee (NAWAC), Farmwatch, the New Zealand Animal Law Association, World Animal Protection (WAP), Helping You Help Animals (HUHA) and the New Zealand Veterinary Association. The Royal New Zealand Society for the Prevention of Cruelty to Animals (RNZSPCA) was also present.

⁴ Industry groups at the workshop included DairyNZ, Meat Industry Association, Federated Farmers, New Zealand Veterinary Association, Veterinary Council of New Zealand, NAWAC, Fonterra, PGG Wrightson, New Zealand Stock and Station Agent’s Association, Beef + Lamb, NZ Pork, transport operators, farmers, the Deer Industry New Zealand and the Royal New Zealand Society for the Prevention of Cruelty to Animals in its enforcement capacity.

51. In addition, MPI met with a range of affected stakeholder representatives including Federated Farmers, DairyNZ, the Meat Industry Association, the Petfood Manufacturers Association and the Road Transport Forum to consider how the regulations would work in practice and to better understand their potential impact on farmers, transporters and processors.
52. The proposals are supported by the majority of industry stakeholders. Advocacy groups have indicated general support for the proposals but have stated that they consider the proposals do not go far enough. In particular, they argue that the minimum age of four full days prior to transport is too young; and that the maximum period of time between last feed and slaughter is too long.
53. Before I recommend the making of regulations, section 183A (10) of the Act also requires that I consult the National Animal Welfare Advisory Committee (NAWAC), which provides independent advice to me on animal welfare issues. John Hellström, Chair of NAWAC, wrote to me on 27 June 2016 setting out comments on three specific issues relating to the draft regulations:
 - The importance of minimising the time between a calf's last feed on farm and its eventual slaughter.
 - The need to ensure that stocking density is properly covered in the shelter regulations and associated guidance.
 - The fact that Cook Strait crossings can sometimes represent shorter journeys to slaughter for calves from the top of the South Island than going by road to facilities further south, but recognising that these ferry crossings are no longer common practice so the regulation is unlikely to have adverse impacts.
54. The regulations have been revised since NAWAC reviewed them in draft and each of the points that the Committee raised has been addressed as follows:
 - The maximum time off feed regulation now requires that young calves are slaughtered "as soon as possible".
 - The shelter regulations requires that facilities must enable young calves to stand up and sit down in a natural posture. Supporting guidance will be published by MPI to provide more detail about maintaining stocking densities appropriate to various circumstances.
 - No further action is necessary in relation to the Cook Strait regulation.

Publicity

55. If Cabinet approves the Animal Welfare (Calves) Regulations 2016 on 25 July 2016, there is a very short period before 1 August 2016, the date on which four of the new regulations are intended to take effect. In order to prepare for this, the policy intent of the regulations has already been widely communicated to the public and affected stakeholders.
56. It is also my intention to publish the full text of the new regulations through a supplementary edition of the *NZ Gazette* on Tuesday 26 July, rather than waiting for publication on Thursday 28 July as would normally occur.

57. Messaging has been co-ordinated through MPI and in collaboration with a number of relevant industry groups, including DairyNZ and Federated Farmers. DairyNZ has been particularly proactive in providing messages and supporting information to members about how they can comply with the new requirements.
58. MPI's well-established educational programme "Safeguarding our Animals, Safeguarding our Reputation" is designed to improve voluntary compliance with animal welfare laws. This year it will feature updated information about the calf regulations, including the launch of a new smartphone app for farmers and truck drivers to educate them about what the law requires and what best practice involves to ensure that calves are fit for transport.
59. MPI will continue to work with industry groups to ensure that all regulated parties are aware of their new obligations as of 1 August 2016. Wider publicity about the new regulations will be co-ordinated between my Office and MPI.

Live animal exports

60. A commencement order and regulations have been drafted to implement policy proposals publicly consulted on and agreed in the development of the Animal Welfare Amendment (No 2) Act 2015.

The Animal Welfare Amendment Act (No 2) 2015 Commencement Order 2016

61. The Animal Welfare Amendment Act (No 2) 2015 Commencement Order 2016 for which I am seeking approval will bring into force new provisions in Part 3 of the Act by the end of 2016, rather than waiting for these to commence automatically in May 2020.
62. These provisions were inserted into the Act by the Animal Welfare Amendment Act 2015 which was passed into law in May 2015. The provisions will improve transparency in relation to the welfare of live animals being exported by providing new powers to the Director-General of MPI.
63. Specifically, these provisions:
 - provide powers to the Director-General of the Ministry for Primary Industries (MPI) to impose conditions on an Animal Welfare Export Certificate (AWEC) that require exporters to report on the welfare of animals during their journey and for up to 30 days post-arrival (Section 25 of the Amendment Act);
 - require the Director-General of MPI to have regard to New Zealand's reputation as a responsible exporter of animals and products made from animals, and allow the Director-General to have regard to information provided by exporters on the welfare of animals previously exported (Section 43 of the Amendment Act);
 - allow the Director-General of MPI to refuse, revoke or amend an AWEC (Section 46 of the Amendment Act); and
 - repeal the statutory requirement for the Director-General of MPI to consult on guidance material for the export of animals. This provision is to be repealed as legislation is not necessary to allow MPI to issue guidance material. MPI can and will continue to work with stakeholders to develop guidance material (Section 23 of the Amendment Act).

The Animal Welfare (Export of Livestock for Slaughter) Regulations 2016

64. The Animal Welfare (Export of Livestock for Slaughter) Regulations 2016 for which I am seeking approval will bring the conditional prohibition on the export of livestock for slaughter under the Act. This conditional prohibition is currently implemented under a Customs and Excise Prohibition Order (CEPO) which needs to be renewed every three years. The current CEPO will expire on 20 December 2016.
65. The CEPO prohibits the export of cattle, sheep, goats and deer (collectively referred to as livestock) for slaughter except with the consent of the Director-General and subject to any conditions he or she specifies.
66. As part of the policy discussions in developing the Animal Welfare Amendment Act 2015, Cabinet agreed that the Government's policy on the export of livestock for slaughter be implemented under the Act via regulation rather than through a CEPO (CAB Min (13) 1/13 refers).

Offences and penalties

67. The Animal Welfare (Export of Livestock for Slaughter) Regulations prescribe an offence and penalty for failing to comply with the requirement to obtain prior approval from the Director-General of MPI before exporting livestock for slaughter. The offence and penalty reflect the existing penalties associated with the CEPO. The penalty for non-compliance will be a fine not exceeding \$5,000 in the case of an individual and a fine not exceeding \$10,000 in the case of a body corporate.
68. The regulatory offence has been created as a strict liability offence as it is expected that the exporter would be aware of the conditional prohibition when applying for an AWEC.
69. It will be a defence if a person can show that they have taken all reasonable steps to comply with the conditional prohibition. This is consistent with defences provided for in relation to strict liability offences already established in section 30 of the Act. It also ensures that exporters will not be liable for circumstances outside of their control or for the act or omission of another person.
70. The regulatory offence and penalty will complement an existing Act offence and penalty for non-compliance with the requirement to obtain an AWEC and any conditions of an AWEC. The penalty for this Act offence upon conviction is a fine not exceeding:
 - \$25,000 in the case of an individual or imprisonment for a term not exceeding six months, or to both; or
 - \$125,000 in the case of a body corporate.

Enforcement

71. MPI will consider the circumstances and nature of the offending before determining whether a prosecution will be taken under the Act or regulations.
72. It is expected that non-compliance with the live animal export provisions in the Act and the regulations will be extremely rare. This is because the majority of exporters already provide reports on the welfare of animals during their journey and no offences against the conditional prohibition on the export of livestock for slaughter, which has been in place since 2007, have been committed.

Regulatory Impact Assessment

73. A Regulatory Impact Assessment is not required as the regulations in relation to live animal exports reflect current Government policy and provide for the commencement of existing legislative provisions.

Timing and 28 day-rule

74. I intend that the Animal Welfare Amendment Act (No 2) 2015 Commencement Order 2016 be notified in the New Zealand Gazette in accordance with the 28 day rule.
75. I propose that the Animal Welfare Amendment Act (No 2) 2015 Commencement Order 2016 that bring into effect new provisions introduced into the Act by amendment in 2015 take effect on 25 August (28 days following gazettal of the regulations on 28 July 2016).
76. I propose that the Animal Welfare (Export of Livestock for Slaughter) Regulations 2016 that bring the current prohibition on the export of livestock for slaughter under the jurisdiction of the Act have a delayed commencement date of 21 December 2016. This will ensure a seamless transition between the two statutory regimes when the current CEPO expires on 20 December 2016.

Consultation

77. Section 184(1) of the Act requires that I must consult, to the extent that is reasonably practicable, having regard to the circumstances of the particular case, the persons I have reason to believe are representative of interests likely to be substantially affected by the proposed regulations before deciding whether to recommend to the Executive Council.
78. In April 2016, MPI Discussion Paper No: 2016/13 "Proposed regulations for the transport of live animals from New Zealand" was released seeking public submissions on proposals. This discussion document sought public feedback on the proposal to bring into force existing legislative provisions in the Act in late 2016, rather than waiting for them to automatically commence in May 2020. Submissions on policy were not sought as the policy was agreed in the development of the Animal Welfare Amendment Act 2015.

79. Live animal export proposals have been discussed with the Animal Trade Advisory Council (ATAC) who represent a significant number of live animal exporters. ATAC generally supports the regulations.
80. Five weeks were provided for comments to be submitted on the proposed regulations. Six public meetings were held across the country. Two workshops were also held in early May, one with industry and one with advocacy groups. Consultation closed on 19 May 2016.
81. MPI received 60 submissions relating specifically to the live animal export proposals. Submissions from the general public principally sought a total ban on the export from New Zealand of all animals, for any purpose. Submissions from industry were largely supportive of the regulations.

Publicity

82. A public announcement on the Animal Welfare (Export of Livestock for Slaughter) Regulations 2016 will be co-ordinated between my Office and MPI once Cabinet has approved the new regulations on 25 July. MPI will undertake further communications work to ensure that all affected stakeholders are aware that the new regulations have been made.

Compliance with other Acts and guidelines

83. The attached regulations for young calves and live animal export are consistent with the:
 - a. principles of the Treaty of Waitangi;
 - b. rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
 - c. principles and guidelines set out in the Privacy Act 1993;
 - d. relevant international standards and obligations; and
 - e. *LAC Guidelines on the Process and Content of Legislation* (2014 edition) which are maintained by the Legislation Design and Advisory Committee.

Regulations Review Committee

84. I do not consider that there are any grounds for the Regulations Review Committee to draw these regulations to the attention of the House under Standing Order 319.

Certification by Parliamentary Counsel

85. The Orders in Council have been certified by the Parliamentary Counsel Office as being in order for submission to Cabinet.

Government agency consultation

86. The following government agencies were consulted: New Zealand Customs Service, Ministry of Foreign Affairs and Trade, Ministry of Justice, Ministry of Business, Innovation and Employment, Ministry for the Environment, Ministry of Transport, Te Puni Kokiri, Environmental Protection Authority, Worksafe NZ,

New Zealand Police, Department of Conservation, Department of Internal Affairs, Parliamentary Counsel Office and the Treasury. The Department of Prime Minister and Cabinet has been informed.

Recommendations

87. I recommend that the Cabinet:

Animal Welfare (Calf) Regulations 2016

1. **note** that on 30 March 2016 Cabinet delegated a small group of Ministers to approve the regulatory policy for calves (EGI Min 16-0048 refers).
2. **note** that the delegated group of Ministers agreed the policy in relation to the following proposals:
 - i. Requiring that a young calf must be at least four full days of age before it is transported for sale or slaughter. The calf must also display certain physical characteristics, including the ability to stand and walk and freedom from disease.
 - ii. Prohibiting the killing of any calves by blunt force trauma except in emergency circumstances.
 - iii. Setting a maximum duration of 12 hours journey time for young calves that are being transported.
 - iv. Prohibiting the transportation of young calves by sea across the Cook Strait.
 - v. Requiring that young calves must be fed at least once in the 24 hours prior to slaughter (down from 30 hours).
 - vi. Requiring loading and unloading facilities be provided and used when young calves are transported for sale or slaughter.
 - vii. Requiring that suitable shelter be provided for young calves before and during transportation and at points of sale and slaughter. (BN 16-0356 refers).
3. **agree** that the following four regulations in the Animal Welfare (Calves) Regulations 2016 should come into force on 1 August 2016 so that they will apply to the bulk of the Spring 2016 calving season:
 - i. Require that a young calf must be at least four full days of age before it is transported for sale or slaughter or as a result of sale. The calf must also display certain physical characteristics, including the ability to stand and walk and freedom from disease.
 - ii. Prohibit the killing of any calves (not just young calves) by blunt force to the head except in circumstances where: (a) the calf is in severe pain & distress and requires immediate humane destruction; and (b) there is no reasonably practicable alternative to the use of blunt force.
 - iii. Set a maximum duration of 12 hours journey time for young calves that are being transported.
 - iv. Prohibit the transportation of young calves by sea across the Cook Strait.

4. **agree** to waive the rule requiring a 28 day notification period in the New Zealand Gazette for the four regulations listed in recommendation 3 so that they may be brought into force on 1 August 2016.
5. **agree** that commencement of the remaining regulations in the Animal Welfare (Calves) Regulations 2016 be delayed as follows:
 - i. Require that young calves must be slaughtered as soon as possible after arriving at a slaughter premises. If it is not possible to slaughter a calf within 24 hours of its last feed on farm it must be fed then slaughtered as soon as possible thereafter. (Limit down from 30 to 24 hours.) (Delayed commencement until 1 February 2017.)
 - ii. Require loading and unloading facilities be provided when young calves are transported for sale or slaughter or as a result of sale. This will apply to vehicles with a loading height 90 centimetres or higher. There will also be a requirement that persons in charge of young calves at loading and unloading take all reasonable steps to use the facilities that are provided (delayed commencement until 1 August 2017).
 - iii. Require that suitable shelter be provided for young calves before and during transportation and at points of sale and slaughter (delayed commencement until 1 August 2017).
6. **authorise** the submission of the Animal Welfare (Calves) Regulations 2016 to the Executive Council.
7. **note** that the full text of the new Animal Welfare (Calves) Regulations 2016 will be published through a supplementary edition of the *NZ Gazette* on Tuesday 26 July.

Animal Welfare Amendment Act (No 2) 2015 Commencement Order 2016 and Animal Welfare (Export of Livestock for Slaughter) Regulations 2016

8. **note** that the Animal Welfare Amendment Act (No 2) 2015 Commencement Order 2016 will bring into force provisions inserted into the Animal Welfare Act 1999 by the Animal Welfare Amendment Act 2015.
9. **agree** that the Animal Welfare Amendment Act (No 2) 2015 Commencement Order 2016 be submitted to the Executive Council to bring sections 23, 24, 25 and 26 of the Animal Welfare Amendment Act 2015 into force on 25 August 2016, rather than waiting for these sections to commence automatically in May 2020.
10. **note** that the Animal Welfare (Export of Livestock for Slaughter) Regulations 2016 will place the conditional prohibition on the export of sheep, cattle, goats and deer (collectively referred to as livestock) under the Animal Welfare Act 1999, rather than implementing this through a Customs and Excise Prohibition Order.
11. **note** that the Animal Welfare (Export of Livestock for Slaughter) Regulations 2016 reflect Government policy agreed in developing the Animal Welfare Amendment (No 2) Act 2015 (CAB Min (13) 1/13 refers).

12. **agree** that commencement of the Animal Welfare (Export of Livestock for Slaughter) Regulations 2016 relating to the prohibition on the export of livestock for slaughter be delayed until 21 December 2016.
13. **authorise** the submission of the Animal Welfare (Export of Livestock for Slaughter) Regulations 2016 to the Executive Council.

Authorised for lodgement

Hon Nathan Guy
Minister for Primary Industries

Appendix A - Animal Welfare (Calves) Regulations 2016

Proposed regulation	Penalty	Comes into force	Rationale and additional notes
Require that a young calf must be at least four full days of age before it is transported for sale or slaughter or as a result of sale. That calf must also display certain physical characteristics, including freedom from disease and injury, the ability to stand and walk, have firm hooves and a navel that is not raw or fleshy.	\$500 infringement offence. No criminal conviction.	1 Aug 2016	Already required by the Transport Code of Welfare, which currently includes requirements and guidance concerning the transportation of bobby calves that are similar to the scope of the proposed regulation. Making these criteria enforceable in regulation will enable stronger action to be taken in cases where these standards are not met. This will help to ensure that animals are only transported if they are physically strong enough to withstand the journey without compromise to their welfare.
Prohibit the killing of any calves (not just young calves) by blunt force to the head except in circumstances where: (a) the calf is in severe pain & distress and requires immediate humane destruction; and (b) there is no reasonably practicable alternative to the use of blunt force.	Prosecutable offence. Penalty up to \$3,000 for individuals and \$15,000 for bodies corporate. Criminal convictions may also be applied	1 Aug 2016	Already required by the Dairy Cattle Code of Welfare. This regulation would extend to beef calves as well. A "calf" in this regulation means a bovine that has not had milk or milk-replacer permanently removed from its diet. It is possible to kill a calf quickly and efficiently without causing unnecessary pain and distress using blunt force trauma. However, the use of a captive bolt or firearm is considered more certain to achieve rapid, humane death. The use of blunt force trauma presents a significant risk to our reputation as a responsible producer of animals and animal products. Placing the current code of welfare prohibition into a regulation will help to ensure that this practice is limited to emergency situations.
Set a maximum duration of 12 hours journey time for young calves that are being transported.	Prosecutable offence. Penalty up to \$5,000/ \$25,000. Criminal convictions may also be applied	1 Aug 2016	12 hours is recommended in the Transport Code of Welfare, but not required. In practice, most journeys are less than 8 hours but a minority are 12+. Research shows that young calves that are in good condition can tolerate transportation of up to 12 hours without any significant detrimental physical impacts. Setting the 12 hour maximum in regulation will prohibit excessively long journeys. It will also allow sufficient flexibility for calves to be transported to a choice of processing facilities. This is important because, in some circumstances, allowing calves to be transported a few hours longer (e.g. 10hrs rather than 8hrs) makes it possible to take them to a meat processing facility that is less busy than one closer to the farm of origin. This, in turn, enables the calves to be slaughtered more quickly overall, which is the better welfare outcome.

<p>Prohibit the transportation of young calves by sea across the Cook Strait.</p>	<p>Prosecutable offence. Penalty up to \$5,000/\$25,000. Criminal convictions may also be applied</p>	<p>1 Aug 2016</p>	<p>New requirement. Young calves may struggle to tolerate a Cook Strait sea crossing, which includes waiting times both pre and post voyage, sometimes lengthy sea crossings and the potential for rough weather to exacerbate existing stress factors causing injury or exhaustion during the journey.</p> <p>These journeys were once relatively common but this is no longer the case due to increased sensitivity in the industry regarding the welfare and reputational risks. None have been undertaken for several years. This regulation will ensure that the practice does not recommence.</p>
<p>Require that young calves must be slaughtered as soon as possible after arriving at a slaughter premises. If it is not possible to slaughter a calf within 24 hours of its last feed on farm it must be fed then slaughtered as soon as possible thereafter.</p>	<p>Prosecutable offence. Penalty up to \$5,000/\$25,000. Criminal convictions may also be applied</p>	<p>1 Feb 2017 (6 month delay in commencement)</p>	<p>Changes existing requirement. Codes of welfare currently allow 30 hours between last feed and slaughter. However, many processing plants practice same-day slaughter.</p> <p>Research undertaken in Australia showed that 30 hours off feed should be an absolute limit for welfare reasons but recommended that a maximum of 24 hours should be considered best practice.</p> <p>This regulation will reduce the maximum time off feed in these circumstances to 24 hours. However, the use of “as soon as possible” in the regulation is intended to provide clear direction that 24 hours should not be viewed as a target. Slaughter should, in fact, occur more swiftly than that unless there are genuine, practical reasons (not convenience or commercial decisions) for it not to.</p>
<p>Require that loading and unloading facilities be provided when young calves are transported for sale or slaughter or as a result of sale. This will apply to vehicles with a loading height of 90cm or higher.</p> <p>Also require that all reasonable and practicable steps be taken to use these facilities.</p>	<p><u>Provision</u> \$500 infringement offence. No criminal conviction.</p> <p><u>Use</u> Prosecutable offence. Penalty up to \$2,000/\$10,000. Criminal convictions may also be applied</p>	<p>1 Aug 2017 (12 month delay in commencement)</p>	<p>New requirement. However, the Transport Code of Welfare does include a requirement to minimise the risks to animals when loading or unloading.</p> <p>Rough handling during loading and unloading presents a significant welfare risk to young calves. This is most likely to occur if calves are loaded in large numbers onto higher vehicles, which is the case with stock trucks. The risk is much lower for utes and low trailers, due to the smaller number of animals being loaded. Stakeholder feedback indicates that these small groups of animals are also more likely to be transported for rearing than slaughter, so there are additional commercial drivers to load them carefully.</p> <p>Setting the 90cm threshold will mean that stock trucks are covered by the regulation but utes and low trailers are not. As well as balancing the welfare risk, this approach reduces the chance of farmers needing several pieces of kit for different types of vehicle.</p>
<p>Require that suitable shelter be provided for young calves before and during transportation and at points of sale or slaughter.</p>	<p>Prosecutable offence. Penalty up to \$2,000/\$10,000. Criminal convictions may also be applied</p>	<p>1 Aug 2017 (12 month delay in commencement)</p>	<p>Broad shelter requirements exist in Dairy Cattle Code of Welfare. Current practice for many stakeholders, but not all.</p> <p>Requiring a minimum standard of shelter will protect young calves from exposure to extremes of weather and from any other unreasonable or unnecessary distress from their physical environment. This would help to reduce the risk that such exposure could impact some calves’ ability to withstand transportation to the ultimate place of sale or slaughter.</p>