Ministry for Primary Industries
Manatū Ahu Matua

Regulatory Impact Assessment

Animal Welfare Regulations: significant surgical procedures

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Please note:

Regulations delayed due to the COVID-19 pandemic

On 30 April 2020 due to the COVID-19 pandemic, Parliament passed legislation1 to delay the introduction of the new criteria of a significant surgical procedure into the Animal Welfare Act 1999 by one year. These criteria will now come into force on 9 May 2021.

The proposed regulations discussed in this document are intended to support the introduction of the new criteria, by providing further clarity about who can perform procedures on animals and under what circumstances. As it was not feasible to introduce new regulations during the outbreak of Covid-19 these regulations were also delayed.

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1 COVID-19 Response (Taxation and other Regulatory Urgent Measures) Act 2020.

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Executive summary

Overview of proposed regulations

The New Zealand animal welfare regulatory system is governed by the Animal Welfare Act 1999 (the Act), which requires that a person who owns or is in charge of an animal meet the animal's physical, health and behavioural needs, and alleviate unreasonable or unnecessary pain or distress. The Act applies to a wide range of animals and contains high level offences and penalties for serious breaches of the Act.

Significant surgical procedures regulations

On 9 May 2020 amendments to the Act will repeal and replace the current significant surgical procedures regime and introduce new criteria for determining whether a procedure on an animal is a significant surgical procedure. The criteria include whether a procedure has the potential to cause significant pain or distress; whether there is potential to cause serious or lasting harm or loss of function if not carried out by a veterinarian; and the nature of the procedure – for instance, whether it is below the surface of the skin or interferes with soft tissue. Only veterinarians may undertake significant surgical procedures on animals, unless regulations provide otherwise.

Certain procedures, routinely undertaken on animals, have the potential to meet the criteria for a significant surgical procedure, for example, sheep tail docking. Without regulations specifying otherwise, these procedures will only lawfully be able to be undertaken by veterinarians from 9 May 2020. This would have major cost and practicality issues for farmers and people involved with animals.

Regulations are therefore needed at the same time as the new significant surgical procedures regime comes into effect. The key objective for the regulatory proposals is to ensure procedures that have the potential to cause significant pain or distress are carried out by an appropriate person in accordance with good practice. Accordingly, the proposed regulations provide for who can undertake certain significant surgical procedures on animals (a veterinarian or a competent person), and how the procedures are to be performed (e.g. by requiring pain relief or restricting the age of animals on which a procedure can be performed).

For some painful procedures for which there are no animal management or therapeutic benefits, proposed regulations will restrict, prohibit, or continue an existing prohibition of, those procedures.

Proposed regulatory infringements and fines (for breach of regulatory requirements) have been aligned with those in the current Animal Welfare (Care and Procedures) Regulations 2018. Existing offences in the Act remain applicable to serious animal welfare offending such as offending that results in harm to an animal. Responsibility for ensuring that the correct person carries out the procedure (e.g. a competent person or a veterinarian) lies with the owner or person in charge of the animal at the time the procedure is carried out. Either of these people, as well as the person undertaking the procedure, may be prosecuted or penalties may apply if the procedure is not undertaken in accordance with the regulation.

The thirty-eight proposals to regulate procedures on animals cover: specific procedures on animals (farm animals, horses and other equids, poultry, game fowl, deer, and dogs); general procedures on a range of animals (e.g. epidurals, freeze branding); and procedures on animals undertaken in the context of research, testing and teaching projects or under section 5(3) of the Act.

Other regulations (which are not about regulating a significant surgical procedure)

There are six other proposals for additions or amendments to regulations. These proposals are intended to: reflect updated animal management practices, include or amend definitions, set a fine for an infringement offence for non-compliance with a compliance notice, and address legal uncertainty.

Many regulations require a person to be 'competent' and/or require pain relief for the procedure

Competence

What constitutes competence for each procedure is not defined, as it will be specific to the particular procedure. However, general principles will apply for determining whether a person is competent to carry out the procedure. These include that the person is experienced with or trained in the correct use of the method being used for the procedure, and that they should be able to recognise early signs of significant distress, injury, or ill-health in the animal (so that they respond or seek advice promptly). A competent person should also use suitable equipment, and have relevant knowledge or training for undertaking the procedure or be under appropriate supervision while performing the procedure.

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Pain relief

Where pain relief is a requirement, it is generally classed as a restricted veterinary medicine under the Agricultural Compounds and Veterinary Medicines Act 1997. To maintain oversight of the use, and manage the associated risks with the medicine, only veterinarians are able to authorise the purchase and use of these medicines, and they must be used in accordance with the veterinarian's authorisation and instructions.

Regulations will maintain and enhance animal welfare

The majority of the proposals to regulate a procedure generally reflect current practice or are for the purpose of clarification.

Overall, the proposed regulations will maintain and enhance animal welfare. This is because in some cases regulations raise standards to reflect good practice and scientific knowledge, and in all cases the regulatory requirements and associated penalties will encourage compliance for those people who are not already following good practice when performing surgical procedures on animals.

Costs and impacts

Farmers and animal owners

Farmers and animal owners will experience increased costs in relation to those proposals which raise standards, where the Ministry for Primary Industries (MPI) understands those standards are not current practice. The increases mostly relate to veterinarian costs (where a procedure is changed to become a veterinarian-only procedure) and costs associated with pain relief, both for the drug itself and any additional handling associated with administering it. For the proposals which represent a change to current standards, six require procedures to be carried out only by veterinarians, and 14 require pain relief for a procedure.

In most instances pain relief requirements will have only a minor cost impact on owners or people involved with the care of animals. This is because for some procedures it is understood pain relief is already being used (e.g. in research, testing and teaching projects), or because the procedure is relatively uncommon (e.g. treating cattle vaginal prolapses, sheep disbudding), or because of the low numbers of animals owned (e.g. freeze branding dogs).

Financial impact will be variable

Financial impacts of the proposed regulations for farmers and animal owners are difficult to quantify because of the number of variables involved. For example, veterinarian costs vary depending on the individual rates and fees charged by the veterinarian (such as travel, consultancy, and pain relief costs). Costs will also depend on whether pain relief is required, the size and type of the animals (as these factors will affect the amount and type of pain relief required), and the number of animals that need to be treated. In addition, some animal owners may already be utilising veterinarians and/or pain relief for procedures, regardless of whether they are required to do so currently.

Affected farmers and animal owners

Farmers and animal owners which are likely to be impacted the most by the regulations are: sheep farmers (increased time and costs for flock management associated with new sheep tail docking requirements related to tail length); goat farmers (increased costs and training required relating to pain relief requirement for disbudding and dehorning); and horse owners (increased costs for pain relief and possible veterinary consultation for the extraction of permanent teeth, including for wolf teeth[2] extractions).

Paraprofessionals

For animal paraprofessionals who are currently undertaking significant surgical procedures without using pain relief, some may find it difficult to access pain relief if required by regulations, as it will need to be authorised by a veterinarian. Before a veterinarian can authorise the use of a restricted veterinary medicine, they must first assess whether it is needed, determine which medicine is the most appropriate in each case, and apply limits and controls on its use to manage the risks.

[2] A wolf tooth is an upper or lower pre-molar tooth.

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Business impacts

Equine paraprofessionals

A number of equine dental technicians may experience a decline in business, as a result of the proposed requirement for pain relief for horse wolf teeth extractions and the requirement that all other permanent horse teeth extractions must only be undertaken by a veterinarian. Some equine dental technicians submitted that the proposal will affect the viability of their businesses (if they cannot access pain relief for wolf teeth extractions, and if they currently extract other permanent horse teeth). However, MPI has been unable to obtain sufficient quantifiable information about the magnitude of this impact on equine dental technicians.

Veterinarians

Some veterinarians, in particular those who specialise in treating farm animals and horses, may experience a slight increase in demand for services. The potential increase is due to the proposed requirements that some procedures are veterinarian-only, and the requirements for pain relief that must be authorised by a veterinarian and the associated training of non-veterinarians to administer the pain relief.

Costs and impacts justified in terms of animal welfare benefits

MPI considers the costs and impacts of the proposed regulations are justified in terms of the overall benefits to animal welfare, and the reputational value of maintaining and improving standards in line with up-to-date scientific knowledge and good practice.

Stakeholder views

MPI tested the regulatory proposals with stakeholders through two public consultation periods: April – May 2016 and June – July 2019. During the 2019 consultation, MPI received over 1,300 submissions on the regulatory proposals. The majority of submissions received were from advocacy groups, veterinarians, and the horse community (horse owners, horse breeders and equine dental technicians). Other submitters included dairy cattle farmers, goat farmers; industry organisations, lifestyle block owners, layer hen and meat chicken farmers, pig farmers, researchers, sheep/beef cattle farmers, veterinarian nurses, and technicians.

The majority of the proposals consulted on were supported. MPI developed the final regulatory proposals taking into account the public and stakeholder submissions, advice from the National Animal Welfare Advisory Committee and the National Animal Ethics Advisory Committee, and available scientific, local and international research.

Implementation and operation

Most regulations will be implemented before or at the same time as the May 2020 amendments to the significant surgical procedures regime in the Act. Where the new regulations affect the existing codes of welfare, the codes will be amended to align with the regulations, and be re-issued.

A delayed commencement date of one year is recommended for new requirements on non-veterinarians to provide pain relief for six procedures. The delay will allow affected parties time to become familiar with the necessary processes for authorising pain relief. The proposals relate to goat and sheep disbudding and dehorning; and the treatment of vaginal prolapses in cattle and goats.

A delayed commencement date of one year is also recommended for the proposal for a minimum tail length for docking sheep, as this reflects a change to current practice which may affect a large number of animals. This will allow affected parties time to become familiar with the required tail length.

A sunset clause is recommended for the proposal to allow hot branding on horses, ponies, donkeys, and their hybrids. This regulation will cease to have effect five years from the date of commencement of the hot branding regulation. By this time MPI considers that advancements in microchipping technology will make it a more practical identification technique than hot branding.

The Ministry for Primary Industries and the Royal New Zealand Society for Prevention of Cruelty to Animals will have responsibility for the enforcement of the new regulations.

MPI will have responsibility for the ongoing operation of the regulations and will work with stakeholders to make sure that educational and communications material is developed to help people understand and ensure they are able to comply with their obligations.

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1 General Information

1.1 PURPOSE

This Regulatory Impact Assessment (RIA) has been prepared by MPI. The analysis and advice in this RIA has been produced for the purpose of informing key policy decisions to be taken by Cabinet on a package of animal welfare regulatory proposals.

The RIA considers options to regulate certain surgical procedures on animals under the Animal Welfare Act 1999 (the Act). The Act governs the animal welfare system in New Zealand by providing for the way in which owners and people in charge of animals should take care of and act towards animals.

1.2 KEY LIMITATIONS OR CONSTRAINTS ON ANALYSIS

1.2.1 Options limited by changes to the Act in May 2020

The analysis of regulatory options is limited by amendments to the Act, which come into effect on 9 May 2020. The amendments repeal and replace the current significant surgical procedures regime and introduce new criteria for determining whether a procedure is a significant surgical procedure. The criteria include whether a procedure has the potential to cause significant pain or distress; whether there is potential to cause serious or lasting harm or loss of function if not carried out by a veterinarian; and the nature of the procedure – for instance, whether it is below the surface of the skin or interferes with soft tissue. Only veterinarians may undertake significant surgical procedures on animals, unless regulations provide otherwise.

Certain procedures, routinely undertaken on animals, have the potential to meet the criteria for a significant surgical procedure, for example, sheep tail docking. In many cases, competent non-veterinarians are already performing these procedures. Regulations are therefore needed at the same time as the new significant surgical procedures regime comes into effect, from 9 May 2020 onwards, to make the law clear about who can undertake certain procedures on animals and how they must be done.

Due to the legislative 'deadline', the 'status quo' option in the analysis for significant surgical procedures is that they will default to being veterinarian-only on 9 May 2020. Therefore, the RIA considers, for each procedure, the option of regulating the procedure against allowing the procedure to default to veterinarian-only in May 2020. Using codes of welfare and non-regulatory mechanisms (such as good practice guidelines and education) to manage a procedure has not been considered as an option. This is because although these approaches can set good standards and encourage good practice, they would not provide an effective legal basis for competent non-veterinarians to undertake significant surgical procedures on animals. Non-regulatory tools are also not directly enforceable, and therefore there would be no legal obligation on people to comply with non-regulatory standards and few consequences for non-compliance.

In addition, Act amendments coming into effect in May 2020 will necessitate regulations being made to address or clarify specific matters, such as the continuation of certain prohibitions or restrictions on procedures (and who can undertake the restricted procedures). For this category of procedures, not all of which may meet the criteria of a significant surgical procedure, the RIA considers the option of regulating the procedure against the option of not regulating.

1.2.2 MPI consulted on the detail of proposed regulations, not on whether to regulate or not

MPI tested the regulatory proposals with stakeholders through two public consultation periods: April – May 2016 and June – July 2019. Submitters generally commented on the detail and practicality of the proposed regulatory approach, rather than whether it is appropriate to regulate or not regulate for the various procedures.

1.2.3 Difficulties in assessing impact of regulatory proposals

Lack of baseline data and scientific information

There is a lack of baseline information, which makes it difficult to assess the impact of regulatory changes. For example, there is a range of ways in which different significant surgical procedures can be carried out, varying both in terms of who is doing the procedure and how they are doing it, and MPI does not have comprehensive information for every scenario. For example, MPI understands goat

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farmers and owners use a variety of methods to remove supernumerary goat teats, and the age of the goat at which these teats are removed also varies. Additionally, because a number of these procedures occur on farms, and impact a large number of animals, MPI does not have extensive compliance data to assess whether people are following good practice when performing the procedures.

It was also difficult, for some procedures, to accurately determine the impacts of the proposals on animals for other reasons. Scientific information and research studies on some of the procedures, in terms of best practice for animal welfare, are sparse or lacking. For example, there is a lack of scientific knowledge about pain and the efficacy of pain relief related to the insertion of nose rings, clips and wires in pigs and cattle.

Complexities of quantifying impacts for animal owners

It is not possible to quantify the impacts for farmers and animal owners on an individual basis. However, the impacts that are likely to materially change the operating environment for a number of affected parties, and have cost impacts, relate to:

- the cost of making a procedure veterinary only;
- the cost of the pain relief drugs;
- the cost of any additional handling associated with administering pain relief; and
- difficulty accessing pain relief.

Quantifying these impacts is complex because of the numbers of variables at play, including: location of farm (i.e. travel costs if animal must be treated by a veterinarian), the type of pain relief used, the size and type of the animals (as these factors will affect the amount and type of pain relief required), and the number of animals that need to be treated. Any additional costs as a result of increased handling required, for example to administer pain relief, are also difficult to quantify.

For people involved with animals, many of the impacts identified through consultation were based on qualitative evidence because quantitative evidence was not provided. For example, in many cases, submitters said that a proposal would have a financial impact on them, but did not quantify the impact.

Where there are increased costs to animal owners, MPI considers these are outweighed by the animal welfare benefits. For example, the value of pain-relief for an animal and the reputational value to New Zealand of maintaining and improving animal welfare standards outweighs the cost and additional handling associated with the administration of pain relief. Further discussion about the impact of the proposals and the limitations of the data collected during consultation is outlined in section 2.2 ('Who is affected and how').

1.3 CONCLUSION

Overall, MPI is satisfied that the analysis in this RIA provides an adequate indication of the impact of the regulatory approaches recommended.

1.4 RESPONSIBLE MANAGER

This Impact Summary is authorised by:

Grace Campbell-Macdonald
Director
Biosecurity & Animal Welfare
Policy & Trade
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2 Problem definition

2.1 WHAT IS THE POLICY PROBLEM OR OPPORTUNITY?

2.1.1 Current situation and regulatory framework

Good animal welfare is important to New Zealand

Animals are vital to New Zealand's economy: in the year ending June 2019 the value of New Zealand's trade in animals and animal products was worth around $30.8 billion. While New Zealand has a reputation as a safe and ethical food producer, this reputation cannot be taken for granted; New Zealand's reputation continues to depend on maintaining high animal welfare standards in the production of animals and animal products.

The importance of animal welfare is increasing across different sectors, in New Zealand and internationally. Consumers, retailers, industry, government and the general public are focussing more on animal welfare standards. Practices which may have been acceptable in the past are being reviewed on the basis of new knowledge and changing attitudes. Some practices and procedures on animals which were previously accepted are now being questioned as contrary to an animal's natural patterns of behaviour or to its general health and wellbeing.

New Zealand is also a nation of animal lovers. More than two thirds of New Zealand households own a companion animal, a level of pet ownership which is among the highest in the world. We care about our animals.

The Act provides a framework for animal welfare standards

Overview

The New Zealand animal welfare regulatory system is governed by the Act, which requires that a person who owns or is in charge of an animal (including an animal under that person's care, control, or supervision) meet the animal's physical, health and behavioural needs, and alleviate unreasonable or unnecessary pain or distress. The Act applies to a wide range of animals and their uses, including companion animals, production animals, wild animals, and animals used in research, testing and teaching. The Act contains high level offences and penalties for serious breaches of the Act. MPI and the Royal New Zealand Society for the Prevention of Cruelty to Animals (SPCA) jointly enforce the Act.

National Animal Welfare Advisory Committee and National Animal Ethics Advisory Committee provide advice to Minister on animal welfare

The National Animal Welfare Advisory Committee (NAWAC) is a Ministerial advisory committee established under the Act to provide advice directly to the Minister responsible for animal welfare on issues relating to animal welfare. NAWAC develops codes of welfare, which set out minimum standards and recommended best practice in relation to a variety of different species of animals and activities involving animals (including commercial slaughter, transport and painful husbandry procedures). Codes of welfare reflect good practice, scientific knowledge and available technology. Codes of welfare are not directly enforceable: there are no offences for breaching them. However, a breach of a code of welfare can be relevant in a prosecution under the Act and demonstrating adherence to a code of welfare can be used to defend against or refute a prosecution.

The National Animal Ethics Advisory Committee (NAEAC) is a Ministerial advisory committee established under the Act to provide advice to the Minister on the ethics and animal welfare issues relating to the use of animals in research, testing and teaching. NAEAC also provides information and advice to animal ethics committees and makes recommendations to the Director-General of MPI concerning the codes of ethical conduct under which animal research is carried out.

Only veterinarians may undertake significant surgical procedures on animals

There are a wide range of surgical procedures carried out on animals by veterinarians and non-veterinarians. Under the Act, 'significant surgical procedures' is defined and may only be undertaken by a veterinarian (or a student veterinarian under the supervision of a veterinarian).

If a surgical procedure on any animal is not a significant surgical procedure, in general any person may perform the procedure, providing it is not performed in such a way that the animal suffers unreasonable or unnecessary pain or distress.

There are many surgical procedures on animals which are currently carried out by competent non-veterinarians. However, under the current regime in the Act there has been a lack of consensus on whether some procedures are 'significant' and therefore should be carried out by veterinarians.

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Animal Welfare Amendment Act (No 2) 2015

Regulations

The Act was amended in 2015 by the Animal Welfare Amendment Act (No 2) 2015 to improve the enforceability, clarity and transparency of the animal welfare regulatory system (subsequent to a review in 2011/12). The amendments enable regulations to be made relating to standards of care, surgical and painful procedures, and exporting animals.

Regulations can also be made to specify an offence as either an infringement offence or a prosecutable offence. A prosecutable offence results in criminal conviction while a criminal conviction is not entered for infringement offences and are suitable for minor offences.

Act offences and penalties may still apply if the offending is severe.

New significant surgical procedures regime in May 2020

In May 2020, new criteria to determine whether a procedure is a significant surgical procedure will come into force, and the current regime for significant surgical procedures will be repealed. This is to address the current uncertainty about whether a particular procedure should be considered a significant surgical procedure. The new criteria for determining whether a procedure is a significant surgical procedure include: whether it has the potential to cause significant pain or distress; whether there is potential to cause serious or lasting harm or loss of function if not carried out by a veterinarian; and the nature of the procedure – for instance, whether it is below the surface of the skin or interferes with soft tissue (see section 3.1.6 for full criteria).

The general rule that only veterinarians can perform significant surgical procedures will remain, but where appropriate regulations will be able to be made which prescribe that non-veterinarians may undertake certain procedures, including some significant surgical procedures.

Current prohibitions in the Act will be repealed in May 2020

Provisions in the Act which currently prohibit specified significant surgical procedures (e.g. ear cropping in dogs) will be repealed by the Animal Welfare Amendment Act (No 2) 2015, as it is considered that decisions on whether to prohibit certain practices are better left to regulations. Regulations are a more flexible means of dealing with areas of the law where developments in science and technology and what is considered accepted good practice are constantly evolving.

2.1.2 Why is the current situation a problem?

Unclear regulatory environment can compromise good animal welfare outcomes

There are risks to animal welfare outcomes arising from uncertainty about who can do certain procedures on animals and under what circumstances, and which procedures are prohibited. This lack of clarity means surgical or painful procedures on animals could be performed by people who are not competent to do so. If not carried out correctly and in accordance with good practice, surgical procedures on animals can cause pain and distress.

People who carry out procedures on animals need to be competent to do so, in terms of their training, skill and experience. For some procedures, it may only be appropriate for a veterinarian to undertake them.

Where the procedure is painful, it may also be appropriate to require pain relief. Whether pain relief should be a requirement depends on the availability, safety and efficacy of pain relieving drugs and practical and economic considerations.

For painful procedures that have no animal management or therapeutic benefits, it may be appropriate for them to be expressly prohibited on animal welfare grounds. Additionally, for some painful procedures which are currently prohibited, MPI wants to ensure that it is clear that the existing prohibition will continue.

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Making some procedures veterinarian-only is problematic or unnecessary

For certain procedures, requiring procedures to be veterinarian-only may be unnecessary or would not necessarily result in the best outcome for the animal, as:

- it may result in negative animal welfare outcomes if treatment is delayed resulting in unnecessary pain or distress (such as treating pig rectal prolapses);
- it would prevent competent non-veterinarians undertaking routine husbandry procedures where veterinary expertise is not required (such as sheep tail docking);
- it would not make best use of the knowledge and skills of highly trained and experienced non-veterinarians who are specialists in certain areas of animal care (such as undertaking surgical reproductive procedures);
- it may be impractical in some areas where there is a scarcity of veterinarians (such as treating a high number of sheep vaginal prolapses on a remote station); or
- it would impose additional costs on owners and people in charge of animals to engage a veterinarian where this expertise is not required (such as the castration of goats under a certain age).

Encouraging compliance by penalising low level breaches and enforcing minimum standards

In the absence of regulatory mechanisms, there have been no penalties proportionate to low level offences and breaches of the Act (such as infringement fees or fines), and therefore it has been difficult to enforce minimum standards in an effective and efficient manner to drive behavioural change.

The Act was amended to allow for regulations to be made to address lower-level offending against animals.

There are other changes needed to regulations

As a result of the development of the significant surgical procedures regulations, some consequential changes are needed to the Animal Welfare (Care and Procedures) Regulations 2018, including changing the definition of pain relief and setting an infringement fee for non-compliance with a compliance notice. Other changes are needed to address issues, which have come to light since the Regulations commenced in 2018, for example to reflect updated animal management practices and to address a lack of clarity.

2.1.3 Objectives

Significant surgical procedures and other procedures on animals

The key objective for the surgical procedures regulatory proposals is to ensure procedures that have the potential to cause significant pain or distress are carried out by an appropriate person in accordance with good practice.

Who is appropriate in each situation will depend on matters such as:

- whether the procedure is likely to fit the criteria for a significant surgical procedure;
- the skill and knowledge required to carry out the procedure (including post-procedure care); and
- practicality.

This includes providing for competent non-veterinarians to continue to undertake selected significant surgical procedures where appropriate.

A secondary objective is to ensure a high level of compliance with the standards set out in animal welfare regulations.

For some procedures that are currently prohibited under the Act, the objective is to ensure that the existing prohibition continues.

We will know that the regulations have helped us to achieve the objectives when:

- there is greater certainty about both who can perform which procedures and under what conditions, and which procedures are prohibited or restricted; and
- animal welfare standards, and compliance with those standards, are maintained and/or enhanced.

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Other issues

The objectives for other regulatory changes, which are not related to regulating a significant surgical procedure, are to:

- update regulations to align with changes to animal management practices;
- update definitions in order to align with new regulations or to provide clarity;
- set an infringement fee for non-compliance with a compliance notice; and
- make technical amendments to address uncertainty or a lack of clarity.

2.2 WHO IS AFFECTED AND HOW?

2.2.1 Regulations will affect animals and people involved with animals

The proposed regulations will affect animals covered by the regulations, by enhancing animal welfare outcomes. In a number of cases, the proposals will result in a change to current standards to reflect good practice and scientific knowledge and/or prohibit procedures, which are adverse to good animal welfare outcomes.

The regulations will also affect owners and people involved in the care of animals, in particular: farmers (dairy, cattle, sheep, goat, pig, layer hen, and meat chicken), researchers, equine dental technicians, horse owners, horse breeders, laboratory technicians, lifestyle block owners, veterinarians, veterinary nurses, and other paraprofessionals.

Majority of proposals reflect current practice but will improve animal welfare overall

The majority of the regulations will not have a major effect on animal owners and those in charge of animals, as they reflect current practice or are for the purpose of clarification. They mostly seek to change the behaviour of people who are not already following good practice in performing surgical procedures on animals, and therefore will improve animal welfare overall.

2.2.2 Some proposals will require procedures to be performed to a higher standard

Some proposals will require procedures to be performed to a higher standard than MPI understands they are currently, to ensure they are carried out in accordance with good practice. The areas that are likely to materially change the operating environment for affected parties, and that will have a cost impact, relate to:

- the cost of making a procedure veterinarian only;
- the cost of the pain relief drugs;
- the cost of any additional handling associated with administering pain relief; and
- any difficulty accessing pain relief.

These impacts are discussed below. MPI considers additional costs are justified in terms of the overall benefits to animal welfare outcomes, and the reputational value of maintaining and improving standards in line with up-to-date scientific knowledge and good practice.

The cost of making a procedure veterinarian only

Under the proposals, six procedures will become veterinarian only, which is a change from current standards. These procedures are: main teat removal on goats, sheep and cattle, teeth cutting (on a range of animals), extraction of permanent horse teeth, and creating/repairing a Caslick's suture on a horse. In practice, many animal owners currently engage veterinarians to undertake these procedures.

The costs of requiring a procedure to be done by a veterinarian are likely to vary considerably. Most clinics will have a standard 'call out 'or 'visit fee', as well as an hourly rate for the procedure, mileage, drugs and consumables. The difficulty with quantifying an average for these costs is that there are a number of factors involved which may mean an average cost is relatively meaningless, including:

- the 'call out' or 'visit fee' which normally includes a charge for the consultation (approximately $20 - $70) and a charge for the initial 10-15 minutes of the consultation (charged out at a pro rata hourly rate);
- the time it takes to do the procedure, which will vary depending on the procedure (surgical procedures are charged at up to $250 per hour);

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- the location of the farm or animal, which will affect travel costs (charged at approximately $0.79 per km);
- the veterinary clinic's business model, which may impact the costs of the drugs (including how much mark-up is included on the wholesale price of a drug); and
- the number of animals being treated at one time, which may reduce the per animal cost.

For horse dentistry work, submitters cited veterinarian call out fees ranging from $80 - $150 as well as travel costs and costs of drugs for sedation and pain relief. In some cases, people submitted that requiring a veterinarian for horse dentistry would double or even triple the costs of a procedure. MPI is unable to verify these assessments.

The cost of the pain relief drugs

Fourteen proposals will make pain relief a requirement

Fourteen proposals require pain relief, which is a change from current standards. However, in most instances this will have only a minor cost impact on owners or people involved with the care of animals. This is because for some procedures it is understood pain relief is already being used (e.g. in research, testing and teaching projects), or because the procedure is relatively uncommon (e.g. treating cattle vaginal prolapses, sheep disbudding), or because of the low numbers of animals owned (e.g. freeze branding dogs). While some people already provide pain relief to animals for procedures, the new requirements will raise costs for people who currently do not. The biggest cost impacts will be for people such as farmers who do not currently use pain relief for relatively common procedures carried out on large numbers of animals (e.g. goat disbudding).

The other group who will be affected by cost increases are horse owners who currently engage equine dental technicians to extract permanent horse teeth (including wolf teeth) without pain relief. This is due to the pain relief requirement under the horse dentistry proposal, which will necessitate the services of a veterinarian to access the pain relief.

In most cases, the pain relief required by the proposals set out in this document will be a registered veterinary medicine under the Agricultural Compounds and Veterinary Medicines Act 1997 and as such its use must be authorised by a veterinarian.

As well as the direct costs of the pain relief itself, there will be costs associated with the time and effort required from both veterinarians and non-veterinarians to develop the systems, training and effective relationships needed to ensure that competent non-veterinarians (e.g. skilled farmers and contractors) undertaking the procedures can reasonably access pain relief from the veterinary community.

Authorisation of the pain relief:

Under the Agricultural Compounds and Veterinary Medicines Act, a veterinarian is ultimately responsible for the use of any pain relief drug that they authorise, including how and when it is used. This results in time and administrative costs associated with veterinarians training and authorising non-veterinarians to use pain relief.

Anecdotal information from contractors within the calf disbudding sector[3] indicates that veterinarians charge an annual certification fee of between $150 and $350 to authorise contractors to hold and use local anaesthetic. This fee could potentially be less for farmers if the authorisation is part of an 'annual consultation' with their veterinarian on the wider health and welfare needs of the animals.

There may also be fees associated with dispensing one off requests for pain relief. This cost will differ between clinics, but is estimated at approximately between $10 - 25.

The pain relief itself

In most cases there will be a mark-up on the cost of the drug - for the purposes of the calculations the cost of the pain relief is estimated at approximately three times the wholesale price.

In many cases the pain relief that will be used will be a local anaesthetic, a reasonably inexpensive drug which is easy to handle and store. The amount of local anaesthetic needed, and therefore the cost, will depend on the procedure and the size of the animal. For example, for some procedures an epidural

[3] The calf disbudding sector is used here as an example of potential costs as it is a recently established regime where veterinarians authorise non-veterinarians with the pain relief required to undertake a specific surgical procedure. In 2017, it was estimated that approximately 40-50 percent of calves were being disbudded with pain relief.

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(which involves using local anaesthetic) is the most appropriate form of pain relief. The cost of a non-veterinarian to perform an epidural on a cow is likely to be less than $5 per animal. This cost is based on needing to administer 5ml of local anaesthetic per animal at the cost of $0.20 per ml ($100 per 500ml[4]) for the drug, plus the cost of associated materials, which are likely to be less than $4 per animal.

In some cases an analgesic, rather than a local anaesthetic, may be used. For example, the cost of an analgesic on a small goat at 2-3 weeks old would be approximately $2.50 per animal. This cost is based on needing to administer 0.5ml per animal at the cost of approximately $5 per ml ($495 per 100ml[5]).

Cost of any additional handling associated with administering pain relief

The time required to administer pain relief to an animal will have a cost impact on farmers where they are currently not using pain relief for a procedure. The impact will differ depending on the pain relief used, the nature of the procedure, who administers the pain relief (e.g. veterinarian or competent non-veterinarian) and the number of animals involved. In some cases, any additional time taken to administer pain relief to an animal may be offset by the time saved performing the procedure. For example, anecdotal information from some people disbudding calves indicated that the time required to administer pain relief was partially offset by the fact that it was easier to perform the procedure when the animal had been given pain relief and therefore the procedure took less time.

Difficulty accessing pain relief

In some circumstances, veterinarians may be unwilling to supply pain relief to non-veterinarians. This may be because they are concerned about the level of oversight necessary for the appropriate and effective use of pain relief, they are not confident that non-veterinarians have the necessary skills to undertake the procedure or administer the pain relief, or they do not consider the procedure should be performed even with pain relief.

Determining the experience and competency of non-veterinarians is complex. However, MPI considers that in some situations, where it is appropriate for experienced non-veterinarians to carry out particular procedures, these concerns can be mitigated. Some proposals therefore require pain relief and enable non-veterinarians to undertake procedures, while recognising that it may difficult for non-veterinarians to access pain relief to perform them.

For example, representatives of the veterinary community have indicated that they do not consider it appropriate for veterinary paraprofessionals, such as equine dental technicians, to extract permanent horse teeth.[6] As pain relief is required for these extractions, equine dental technicians may not be able to perform these extractions, even where a regulation allows for it, as it is likely to be difficult for non-veterinarians to access pain relief.

One equine dental technician submitted that extractions represent a third of their business and others said the proposal will affect the viability of their business. Equine dental technicians operate independently with different types of practices and business models. As there is no representative body for equine dental technicians across New Zealand, MPI has been unable to obtain sufficient quantifiable information on how many equine dental technicians would be affected[7] by the horse dentistry proposals or the magnitude of the impact.

[4] The wholesale price is approximately $32.

[5] The wholesale price is approximately $165.

[6] In June 2019, the New Zealand Veterinary Association released a policy statement that indicated that all horse teeth extractions, except finger loose baby teeth, should only be undertaken by veterinarians. https://www.nzva.org.nz/page/policyesupervisionequine

[7] Some estimates suggest there are approximately 50 equine dental technicians working throughout New Zealand.

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2.3 ARE THERE ANY CONSTRAINTS ON THE SCOPE FOR DECISION MAKING?

2.3.1 Scope of proposals to regulate procedures on animals

Proposals to regulate significant surgical procedures

It is not necessary to regulate all surgical procedures performed on animals. Regulations are proposed only in respect of a procedure, which is likely to meet the new significant surgical procedures criteria, and:

- there is a lack of clarity about who should perform the procedure; and/or
- it is appropriate for non-veterinarians to perform the procedure; and/or
- it is appropriate to update or clarify standards to reflect good practice (e.g. make pain relief a requirement).

There are 30 significant surgical procedures proposed for regulation, which are:

- general procedures undertaken on a range of animals (e.g. epidurals); and
- specific procedures undertaken on particular animals, including cattle, sheep, goats, pigs, horses, poultry, and deer.

Proposals to clarify, prohibit or restrict procedures

There are eight proposals to clarify, prohibit or restrict procedures, not all of which are significant surgical procedures. These procedures are hot branding, freeze branding, dog ear cropping, cattle teat occlusion and various procedures on horses and other equids.

2.3.2 Alignment of proposed penalties with comparable current infringement fees and fines

Regulatory penalties (infringements and regulatory fines) will be needed for the proposed new regulations, where the regulations set requirements as to how the procedure is performed (e.g. with pain relief), or as to the animal (e.g. the age or the animal at the time of the procedure) or who can perform it (e.g. only a veterinarian). A penalties regime already exists in the current Animal Welfare (Care and Procedures) Regulations 2018, and therefore the proposed regulatory penalties have been aligned with the infringements and fines in those Regulations.

2.3.3 Some procedures not proposed for regulation

Regulations considered unnecessary for some procedures

In light of the consultation undertaken in 2016 and subsequent consideration by MPI, some procedures on animals previously put forward for regulation are not being progressed. This is because MPI considers regulation is not necessary, because the procedure is either: clearly a significant surgical procedure (and should be veterinarian-only); or clearly not a significant surgical procedure; or impractical to regulate as it requires judgment on when veterinary attention is needed. These procedures are listed below, grouped according to whether the procedure is general (i.e. performed on a range of animals) or specific to a type of animal or group of animals.

Procedure is a significant surgical procedure

i. procedures on all animals: liver biopsies; restrictions on devoicing unless in the best interests of the animal; extraction of teeth (excluding equids); prolapses (note some sheep, cattle, pig and goat prolapses are proposed to be regulated); and

ii. procedures on specific animals or groups of animals: llama and alpaca – restrictions on castration; cattle – restrictions on claw removal; scaling of dog and cat teeth; declawing of ostriches and emu; turkeys – desnooding; companion animals - restrictions on desexing; cats - restrictions on declawing unless in the best interests of the animal; birds – pinioning; fallow deer polling; and roosters – caponising.

Procedure is not a significant surgical procedure

iii. procedures on all animals: non-surgical reproductive procedures; applying nerve blocks; expression of anal glands; notching, tipping, clipping, marking, tagging and punching (excluding research, testing and teaching); and

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iv. procedures on specific animals or groups of animals: horses and other equids – shoeing; trimming hooves (all hoofed animals) and granulomas in goats' feet; and floating of horse and other equid, llama and alpaca teeth.

Judgment required as to when veterinary attention is needed

v. procedures on all animals: inserting drains; treating abscesses; stitching up wounds; entropion eye treatment; and blood harvesting.

General rules will continue to apply to unregulated procedures on animals

If a procedure meets the criteria for a significant surgical procedure and no regulations are made prescribing the way it is performed, it will continue to be a veterinarian-only procedure from May 2020. If a procedure is unlikely to meet the significant surgical procedures criteria, any person may perform it. In all cases, the general safeguards and standards in the Act, other regulations, and codes of welfare still apply. This includes all obligations to provide for an animal's physical, health and behaviour needs, and to alleviate pain and distress.

2.3.4 Other proposed changes (not about regulating a procedure)

There are six proposals, which are not about regulating a significant surgical procedure, which have been included in the regulatory analysis for completeness. The regulatory changes arose in the context of the development of the significant surgical procedures regulations. The proposals are needed to: align current regulations with updated animal management practices; amend or include definitions in current regulations for clarity and completeness; set an infringement fee (for non-compliance with a compliance notice); and address any legal uncertainty. Descriptions of these proposals are set out below.

Changes to the Animal Welfare (Care and Procedures) Regulations 2018 (the Regulations)

Changes to regulation 48 (Use of electric prodder)

i. Proposal to reduce the weight limit for pigs on which electric prodders can be used when they are in transition from lairage (a place where pigs are put prior to being slaughtered) to a restrained stunning box.

ii. Proposal to clarify that the electrical devices used by the New Zealand Police, for legitimate law enforcement activities, are excluded from the definition of an electric prodder.

Definitions

iii. Proposal to include a definition for layer hens.

iv. Proposal to change the definition of pain relief.

Infringement fee for non-compliance

v. Proposal to set the fee for the infringement offence for non-compliance with a compliance notice (under section 156I (1) of the Act) at $500.

Technical amendment

vi. One proposal makes a technical clarification, that significant surgical procedures regulations (except regulations which prohibit procedures) do not apply to procedures undertaken within research, testing and teaching carried out as part of project approved by an animal ethics committee under part 6 of the Act.

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3 Options identification

3.1 WHAT OPTIONS HAVE BEEN CONSIDERED?

3.1.1 Options

For the **significant surgical procedures proposals**, the following two options were considered:

1. not regulating, and therefore allowing the procedure to default to being veterinarian only in May 2020; and
2. regulating the procedure to provide for who can undertake the procedure and how it should be undertaken.

For the **other regulatory proposals**, the following two options were considered:

1. not regulating; and
2. regulating.

3.1.2 Criteria to assess options

MPI assessed the options for each proposal using the following four criteria:

1. ***Effective*** *– is there an identified problem? Is it likely that regulations will achieve the desired outcomes and/or update practice where necessary?*

   If an option is effective:

   - there will be no legal ambiguity either because:
     - there is a clear legal basis for competent non-veterinarians to perform a procedure (if that is appropriate); or
     - it is clear which procedures are prohibited or restricted;
   - good animal welfare outcomes are not compromised;
   - there is a higher level of compliance with animal welfare standards, for example through education and use of appropriate enforcement mechanisms for low-medium level offending;
   - research, testing and teaching projects; certain industries; and fisheries management and conservation programmes are not adversely affected; and
   - regulations align with updated animal management practices.

2. ***Efficient*** *– if regulations set a higher standard than current minimum standards or practice, they should be the minimum necessary to ensure that the purpose of the Act will be met, be practical and economically viable.*

   - Is the option cost-effective and practical while ensuring good animal welfare outcomes?
   - Does the option make best use of the knowledge and skills of trained and experienced non-veterinarians who are specialists in certain areas of animal care?

3. ***Clear*** *– the actions or omissions are specific and measurable. Regulations need to be clear and concise so there is no doubt when an offence is committed.*

   - Which option is best in terms of prescribing the acts and omissions which would constitute a breach of the requirements to ensure people comply with their obligations under the Act and contribute to good animal welfare outcomes?
   - Which option will address any confusion or lack of certainty (about a particular procedure or other issue)?

4. ***Equitable*** *– the level of offence is proportional to the lower level penalties that are available under regulation.*

   - Can penalties be set which are proportional to the offence, in terms of harm and distress caused to the animal if the regulation is breached?
   - Can regulatory penalties be set which are consistent with penalties for breach of other regulations, where comparable and which are clear and enforceable?

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- Is it appropriate that offences associated with a procedure on an animal can only be prosecuted under the Act?

3.1.3 Analysis of options against criteria and impacts of proposals

Analysis tables for each of the regulatory proposals are set out in:

1. Appendix One (significant surgical procedures proposals);
2. Appendix Two (proposals to prohibit, restrict or clarify certain procedures); and
3. Appendix Three (proposed regulatory changes not directly related to a specific surgical procedure).

3.1.4 Levels of proposed penalties

Regulatory penalties

The Act provides for the making of regulations specifying either an infringement offence or a prosecutable offence (an offence that can lead to a criminal conviction). Penalties may apply to the person performing the regulated procedure or to the owner or person in charge of the animal who has a responsibility to ensure procedures are not undertaken on their animals in breach of any regulation.

Proposed categories of regulatory penalties applicable to the proposed regulations are set out in the table below:

Infringement offences (do not result in a criminal conviction)	Prosecutable regulatory offences (may result in a criminal conviction)
Category B: $500 fee. This penalty category will generally be appropriate where the offence has the potential to cause mild to moderate short-term harm to the animal.	Category C: $3000 maximum fine (individual) $15,000 maximum fine (body corporate). This penalty category will generally be appropriate where the offence has the potential to cause mild to moderate and possible long-term harm to the animal. Category D: $5000 maximum fine (individual) $25,000 maximum fine (body corporate). This penalty category will generally be appropriate where the offence has the potential to cause moderate and likely long-term harm to the animal.

Factors considered when determining penalties

When determining appropriate penalties for each regulated procedure, MPI considered:

- the level of harm to the animal involved in the offending, including whether the procedure is prohibited;
- the affordability and appropriateness of the penalty for the target group – for example, is the fee or fine likely to act as a sufficient deterrent against offending; and is a criminal conviction appropriate; and
- the proportionality and consistency of the proposed penalty with the fees and fines in the existing Animal Welfare (Care and Procedures) Regulations 2018 and for the other proposed regulations.

Where procedures are not regulated, Act offences and penalties will be available if serious harm to animal is caused

Existing offences in the Act remain applicable to serious animal welfare offending such as offending that results in harm to an animal. Penalties for Act offences are mainly a fine up to $50,000, or up to 12 months imprisonment, for individuals, or a fine up to $250,000 for a body corporate.

For the most serious wilful ill-treatment offences under the Act, the penalty is: a fine up to $100,000 or up to five years imprisonment for an individual, or a fine up to $500,000 for a body corporate.

Veterinarians must also comply with professional standards

Under the Veterinary Council of New Zealand Code of Professional Conduct (the Code), veterinarians must act in a manner that promotes the public's trust and confidence in the profession and comply with all relevant legislation and other standards applicable to their veterinarian practice. The Code is used by the Veterinary Council of New Zealand and its committees as a standard by which to measure veterinarians' professional conduct in the event of complaints and concerns being raised.

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3.1.5 Who can be prosecuted if the regulation is breached?

For each procedure proposed to be regulated, the procedure will either be prohibited or be allowed if undertaken by a person who is competent to do so or where stated, a veterinarian. Where there is an offence provision for the person undertaking the procedure, the owner or person in charge of the animal is also liable for the same penalty if they allow the procedure to occur or do not ensure that a competent person or veterinarian undertakes the procedure.

For example, if an individual hot brands a cattle beast, they are liable on conviction to a prison sentence and a maximum $5,000 fine. The owner or person in charge of the animal will also be liable for a prison sentence and a maximum $5,000 fine for allowing the procedure to be undertaken.

Defendants of a prosecutable offence under the regulations will have a defence that they took all reasonable steps to comply with the relevant provisions, for example, they did some level of due diligence to develop competence. This is consistent with section 21 of the Act that provides a person who performs a surgical procedure on an animal only commits an offence if they did so without reasonable excuse. As with all defences provided for in the Act, the onus would be on the defendant to prove the defence.

3.1.6 Explanations for terms used in proposals

The following terms are relevant to the proposals to regulate certain procedures on animals.

Significant surgical procedure

Section 14 of the Animal Welfare Amendment Act (No 2) 2015 will replace current section 16 of the Act ('Classification of surgical procedures') with the following section on 9 May 2020:

"Criteria to determine whether procedure is significant surgical procedure

If any person has to determine whether a procedure carried out on an animal is a significant surgical procedure under this Act, the person must determine the question by considering the following criteria:

(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."

Competent person

Where a non-veterinarian is mandated to perform a procedure, that person must be competent. What competence means will vary greatly according to the nature of the procedure, the species and other matters. However, a competent person should:

1. be experienced with, or have received training in, the correct use of the method being used;
2. be able to recognise early signs of significant distress, injury, or ill-health so that they can take prompt remedial action or seek advice;
3. use suitable equipment; and
4. have the relevant knowledge, or have received relevant training, or be under appropriate supervision.

Competence will be specific to each procedure. For example, someone who is competent to dehorn a goat may not be competent to dehorn a sheep, or castrate a goat. Under the Animal Welfare (Care and Procedures) Regulations 2018, people who perform certain surgical or painful procedures on animals must meet the requirements above. It is likely that any regulations that may be approved in this package will be drafted in a similar way.

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Pain relief

Pain relief proposed to be required in regulations is generally classed as a restricted veterinary medicine under the Agricultural Compounds and Veterinary Medicines Act 1997. Restricted veterinary medicines can pose significant risks to the welfare of the animals treated, and in food-producing animals can result in residues collecting in animal tissues that could jeopardise trade. To maintain oversight of their use and manage these risks, only veterinarians are able to authorise these medicines' purchase and use, and they must be used in accordance with the veterinarian's authorisation and instructions.

Because they pose the same potential risks to animal welfare and trade, medicines intended for human use – even over the counter medicines – must also be authorised by a veterinarian before they can be used on animals.

Before a veterinarian can authorise the use of a restricted veterinary medicine, they must first assess whether it is needed, determine which medicine is the most appropriate in each case, and apply limits and controls on its use to manage the risks.

Veterinarian

For all procedures, the term 'veterinarian' includes a veterinary student under the direct supervision of a veterinarian, except for where the proposal refers to a veterinarian authorising pain relief. Only registered veterinarians are permitted to authorise the purchase and use of pain relief medicines.

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4 Summary Impact Analysis (proposed approach)

4.1 SUMMARY TABLES OF COSTS AND BENEFITS

Costs

Affected parties	Comment	Overall impact
Additional costs of proposed approach, compared to taking no action		
Sheep farmers	Increased costs for pain relief, training and possible veterinary treatments for teat removal over age restriction and for certain teats. Some sheep may be euthanised where the cost of a veterinarian call out (around $80 - $150) for teat removal outweighs the value of the sheep.	Nil - low cost impact for most dairy sheep farmers, as sheep teats not generally removed.
	Increased costs for pain relief for sheep disbudding and dehorning.	Nil - low cost impact, as practice not widespread for sheep.
	Increased time and costs for flock management associated with new sheep tail docking requirements related to tail length. Costs will be ongoing.	Low – medium impact as requirement will only affect a proportion of sheep farmers.
Goat farmers	Increased costs for pain relief, training and possible veterinarian treatments for teat removal over age restriction and for certain teats. Costs will be ongoing.	Low cost impact, as most goat farmers already following good practice (e.g. removing teats at an early age and/or using pain relief).
	Increased costs for pain relief for disbudding and dehorning: additional training required, time and costs associated with obtaining drug prescription from veterinarian.	Low – medium cost impact as some goat farmers not using pain relief for disbudding and dehorning.
	Increased costs for pain relief for treating vaginal prolapses. Costs will be ongoing.	Low cost impact for treating goat prolapses as the condition is uncommon.
Cattle farmers	Increased costs for pain relief for treating vaginal prolapses. Costs will be ongoing.	Low cost impact for treating cattle prolapses as the condition is uncommon.
	Increased costs for pain relief, training and possible veterinarian treatments for teat removal over age restriction and for certain teats. Costs will be ongoing.	Low cost impact, as most cattle farmers already following good practice (e.g. removing teats at an early age and/or using pain relief).
Dog owners	Increased costs for pain relief for freeze branding. Costs will be one-off for owners.	Low cost impact because some owners currently use pain relief and/or low number of animals involved.
Owners of small companion animals (e.g. rabbits and rodents)	Increased costs of purchasing alterative equipment for teeth reduction or for engaging a veterinarian to perform teeth reduction. Costs may be one-off or on-going.	Low – medium cost impact for those owners who do not use alternative methods to reduce teeth (i.e. grind teeth).
Horse owners	Increased costs for pain relief for the extraction of permanent teeth (including for wolf teeth extractions) and possible veterinary consultation.	No cost impact for those horse owners already using veterinarians/pain relief and medium – high cost impact for horse owners not currently using veterinarians/pain relief and those with large horse herds.
	Increased costs for pain relief for creating, repairing or opening a Caslick's suture.	Low cost impact as owners mostly follow good practice.

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Affected parties	Comment	Overall impact
Equine dental technicians	Some equine dental technicians may experience a decline in business, as they may no longer be able to extract horse wolf teeth because of the difficulty accessing pain relief.	Medium – high business impacts, depending on the proportion of business related to permanent teeth extractions.
Pig owners	Increased costs due to prohibition of nose wires, for those owners who currently use nose wires for animal management purposes, and who will have to upgrade to nose rings or clips.	Cost impact low because nose rings and clips more commonly used and are affordable.
Organisations and researchers undertaking research, testing and teaching projects	Increased time and costs for organisations carrying out research, testing and teaching, if they do not currently have animal ethics committee (AEC) approval for standard operating procedures which involve removing tissue (e.g. ear notching on a rodent under two weeks of age), surgical tagging, desexing or cutting teeth. (AEC approval will be required for standard operating procedures.)	Low impact, as most organisations already get AEC approval for their standard operating procedures.
All animals on which regulated procedures are performed	In isolated instances, there may be poorer animal welfare for some animals, if financial impact of regulations on owners has unintended consequence of leaving animals to go untreated, or in some cases euthanised (e.g. pain relief requirements for some farm husbandry procedures or making some horse teeth extractions veterinarian-only).	Impact low, as: regulation reflects status quo; or pain relief is already generally used for the procedure; or the procedure is uncommon; or there are a low number of animals involved.

Monetised benefits

Affected parties	Comment	Impact
Veterinarians	Some veterinarians may experience an increase in demand for services, because of requirements that some procedures are veterinarian only (main teat removal on goats, sheep and cattle, some procedures on horses and teeth cutting on a range of animals); and requirements for pain relief that must be authorised by a veterinarian and associated training of non-veterinarians to administer pain relief.	Low – medium business impacts for veterinary practices which mostly specialise in equine and/or farm husbandry treatments.

Non-monetised benefits

Affected parties	Comment	Impact
Animal welfare benefits	Proposals mostly seek to change the behaviour of people who are not already following good practice in performing surgical procedures on animals, and therefore will improve animal welfare overall. Additional requirements for use of pain relief during certain procedures will reduce pain and distress in animals being treated.	Low – medium
Consumer acceptance / societal value	Lower likelihood of adverse publicity related to cases of animal ill-treatment (through clearer penalties, greater specificity around offences, and a stronger regulatory regime) will support consumer acceptance.	Low
All farmers	Improved clarity for owners and people in charge of animals about expectations for competency and use of pain relief during significant surgical procedures on animals. Best practice guidelines and education on undertaking certain procedures should also improve farmer confidence and competency.	Medium
MPI and SPCA	Clear offences and penalties, and the introduction of an infringement fine system, will better support MPI and SPCA to respond to animal welfare issues.	Medium
	Improved compliance with animal welfare regulations.	Medium
Market access benefits	Maintaining the credibility of New Zealand's animal welfare regulatory system, and ensuring that farming and animal husbandry keep pace with good practice and scientific knowledge will protect "New Zealand Inc".	High

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5 Stakeholder views

5.1 CONSULTATION IN 2016

MPI undertook a public consultation during April – May 2016 seeking feedback and submissions on a substantial package of animal welfare regulatory proposals set out in the discussion document, *Proposed Animal Welfare Regulations (Care & Conduct and Surgical & Painful Procedures)* April 2016. During the consultation period, MPI held public consultation meetings in a number of locations across the country.

Over 1400 submissions were received on the whole set of proposals, however only some of the proposals were about significant surgical procedures. A summary report on the consultation is available at https://www.mpi.govt.nz/dmsdocument/18953-animal-welfare-regulations-summary-report-on-public-consultation-april-may-2016.

5.2 CONSULTATION IN 2019

2019 consultation primarily about significant surgical procedures

MPI undertook a further public consultation during June – July 2019 seeking feedback and submissions on a further package of regulatory proposals, set out in the discussion document, *Proposed Animal Welfare Regulations, significant surgical procedures* June 2019. Most of the proposals were about regulating a range of significant surgical procedures on animals. The discussion document included general and specific questions on the proposals, and questions, which were relevant to the whole regulatory package, for example questions about the compliance and enforcement regime, pain relief and competency. MPI also sought new information on procedures on animals which were previously considered for regulation, but for which MPI had decided regulations were unnecessary.

During the consultation period, MPI held public meetings in a number of locations across the country, and targeted meetings, workshops and webinars with various stakeholders, including people involved with research, testing and teaching; farming industry representatives; and advocacy groups.

Submissions and submitters

MPI received over 1,300 submissions. The majority of submissions received were from advocacy groups, veterinarians, and the horse community (horse owners, horse breeders and equine dental technicians). Other submitters included: alpaca/llama farmers; dairy cattle farmers; dog breeders; donkey breeders; educators; goat farmers; industry organisations, laboratory technicians, lifestyle block owners, layer hen and meat chicken farmers, pig farmers, researchers, sheep/beef cattle farmers, veterinarian nurses and technicians.

The following organisations submitted on some, or all of the proposals: Beef + Lamb New Zealand; Dairy Goat Co-operative; Dairy NZ; Deer Industry New Zealand; Federated Farmers of New Zealand; Fish and Game New Zealand; Harness Racing New Zealand; New Zealand Animal Law Association; New Zealand Deer Farmers Association; New Zealand Pork; New Zealand Sport Fishing Council; New Zealand Veterinary Association; Poultry Industry Association of New Zealand; SPCA; Save Animals from Exploitation Incorporated; University of Auckland; University of Otago Animal Welfare Office and Dunedin Animal Ethics Committee; Veterinary Council of New Zealand; and World Animal Protection New Zealand.

Final proposals took into account submissions

While there were strong and varied views from stakeholders, the majority of proposals were supported.

MPI developed the final regulatory proposals taking into account the public and stakeholder submissions, advice from NAWAC and NAEAC, and available scientific, local and international research.

A short summary of submitters' views are set out in the analysis tables for each procedure in the appendices. A summary of feedback will be made available on the MPI website.

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6 Implementation and operation

6.1 HOW WILL THE NEW ARRANGEMENTS BE GIVEN EFFECT?

6.1.1 Regulations made under the Act and codes of welfare updated

Subject to Cabinet agreement, the proposals will be given effect through the making of regulations by Order in Council by the Governor-General on the recommendation of the Minister, under the Act. In order to ensure effectiveness, most regulations will be implemented before or at the same time as the May 2020 amendments to the significant surgical procedures regime in the Act.

Where the new regulations affect the existing contents of codes of welfare, the codes will be amended to align with the regulations, and be re-issued.

Once implemented, MPI and SPCA will have responsibility for the enforcement of the new regulations. MPI will have responsibility for the ongoing operation of the regulations and will work with stakeholders to make sure that educational and communications material is developed to help people understand, and ensure they are able to comply with, their obligations.

6.1.2 Delayed Commencement

A delayed commencement date of one year after the date the other regulations come into force is proposed for new requirements on non-veterinarians to provide pain relief for six procedures. One year will allow affected parties, such as farmers and veterinarians, time to become familiar with the new procedure, administering appropriate pain relief and with the necessary processes for getting pain relief authorised. The delayed requirement to provide pain relief relates to the following animals and procedures:

1. Goats – disbudding;
2. Goats – dehorning;
3. Goats – treating vaginal prolapses;
4. Cattle – treating vaginal prolapses;
5. Sheep – disbudding; and
6. Sheep – dehorning.

A delayed commencement date of one year is also proposed for the proposal for a minimum tail length for docking sheep, as this reflects a change to current practice which may affect a large number of animals. One year will allow time for affected parties, primarily sheep farmers and docking contractors, to adjust their existing practices to meet the new tail docking standard.

A delayed commencement also allows time for enforcement agencies to educate and raise awareness of the new regulations to ensure affected parties are in a position to comply with new requirements before they take effect.

6.1.3 A sunset clause is recommended for one regulation

A sunset clause (a clause providing that the law shall cease to have effect after a specific date) is recommended for the proposal to allow hot branding on horses, ponies, donkeys, and their hybrids. MPI considers that while hot branding for these species remains good practice, advancements in microchipping technology will make it the more practical identification technique within approximately five years' time. The proposed sunset clause will therefore take effect five years from the date of commencement of the hot branding regulation.

6.1.4 Enforcement

The Act is primarily enforced by MPI and the SPCA. The SPCA is an approved organisation under section 121 of the Act which allows them to have animal welfare inspectors who can enforce the Act. MPI focuses on production (farm) animal welfare issues while the SPCA focuses on urban areas and on companion (pet) animal welfare issues.

A range of enforcement options are available under the Act and regulations, other than prosecuting an animal welfare offender. The proposed regulations introduce new offences, however prosecution or issuing an infringement may not be appropriate in all cases. For example, educational material may be more appropriate for a first offence where there was a genuine lack of knowledge and the offending was minor. In other situations, depending on the specific circumstances, if a defendant had a reasonable excuse for their actions under section 21(1) of the Act, an infringement notice would not be issued or a prosecution taken.

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7 Monitoring, evaluation and review

7.1 HOW WILL THE IMPACT OF THE NEW ARRANGEMENTS BE MONITORED?

MPI and the SPCA have databases that record when breaches of regulations are detected and the outcome of the investigation of those breaches. Analysis of the databases is undertaken to identify compliance trends. Those databases will be adapted to include the new regulations to assess compliance and enforcement issues.

Noting that compliance activity is largely reactive to complaints received, MPI will also consider ideas from submitters for monitoring compliance, which include: creating a further online survey inviting feedback about the consequences of these regulation changes; using an e-mail address and the existing 0800 number so that stakeholders can report experiences relating to the implementation of the regulations; conducting focus groups with owners and persons in charge of animals; undertaking regular audits; and using social media.

7.2 WHEN AND HOW WILL THE NEW ARRANGEMENTS BE REVIEWED?

MPI proposes to review the performance of the regulations once embedded in the animal welfare compliance system as part of its four yearly strategic review of the animal welfare system. This review will look at whether the regulations are achieving their objectives, stakeholder awareness of their obligations, and whether there are any barriers to implementation.

In addition, if it became apparent at any time that some regulations, or aspects of the regulations, were not working as intended, for example resulting in poor animal welfare outcomes, those regulations would be reviewed for efficacy and follow-up actions undertaken as appropriate and necessary to ensure the purposes of the Act are being met.

MPI regularly engages with stakeholders to assess issues to do with animal welfare, and the workability of the animal welfare framework in general (including codes of practice and regulations). These forums provide an opportunity for stakeholders to raise concerns or issues about the proposed regulations outlined in this impact analysis.

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Appendix One – Option analysis tables for proposals to regulate procedures likely to meet the criteria of a significant surgical procedure

Introduction

For each proposal set out in Appendix One, it is considered that the procedure is likely to meet the criteria of a significant surgical procedure. For each proposal, the tables in this appendix include the following sections:

a. Background and issues giving rise to the proposal to regulate the procedure

b. Proposal consulted on (in the 2019 discussion document)

c. Summary of submitters' views on the regulatory proposal

d. Final proposal (post consultation)

e. Proposed penalty

f. Option analysis consisting of:

- Option descriptions:
  - Option 1 – allow procedure to become veterinarian-only in May 2020 (i.e. do not regulate) and
  - Option 2 – regulate the procedure to provide for who can undertake it and how it must be undertaken (i.e. according to final proposal)
- Option assessment of the two options (including preferred option)

g. Rationale for final proposal

h. Expected impact of the proposed regulation

Key for options analysis tables

Each proposal is assessed against criteria using the symbols in the chart below.

x x	x	✓	✓✓	—
Much worse than not regulating	Worse than not regulating	Better than not regulating	Much better than not regulating	About the same as doing nothing

List of proposals

Farm husbandry Procedures

1. Cattle – treating vaginal prolapses
2. Sheep – treating vaginal and uterine prolapses
3. Goats – treating vaginal prolapses
4. Pigs – treating rectal prolapses
5. Sheep – restrictions on teat removal
6. Goats – restrictions on teat removal
7. Cattle – restrictions on teat removal
8. Pigs and cattle – application of nose rings and clips, and wires
9. Goats – restrictions on castration
10. Goats – restrictions on disbudding
11. Goats – restrictions on dehorning
12. Sheep – restrictions on disbudding
13. Sheep – restrictions on dehorning
14. Sheep – restrictions on tail docking

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Horses and equids

15. Equids – restrictions on teeth extractions
16. Horses – restrictions on performing a Caslick's procedure

Poultry and game fowl

17. Chickens and turkeys – restrictions on beak tipping
18. Breeder chickens – spur removal
19. Breeder chickens – restrictions on partial toe amputation
20. Game fowl – restrictions on dubbing

Deer

21. Deer – restrictions on develvetting (velvet antler removal)

General procedures

22. All animals – restrictions on performing epidurals
23. All animals – restrictions on surgical reproductive procedures
24. All animals – dentistry (restrictions on cutting teeth)
25. All animals – performing transcervical insemination
26. All animals – inserting a urinary catheter
27. All animals – performing cystocentesis

Research, testing and teaching and functions under section 5(3) of the Act

28. All animals – tissue removal for research, testing and teaching, or for functions under section 5(3) of the Animal Welfare Act 1999 (the Act)
29. All animals – surgical tagging for research, testing and teaching, or for functions under section 5(3) of the Act
30. All animals - desexing and sterilising of animals used in research, testing and teaching

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1. Cattle – treating vaginal prolapses	
Background and issues	Vaginal prolapses generally occur in heavily pregnant cows just before calving. While relatively common in sheep, vaginal prolapses are rare in cattle. Anecdotally there are some farmers who currently treat vaginal prolapses, however it is more common that a veterinarian would be called to treat them.
Proposal consulted on (no. 7 in the 2019 discussion document)	A competent person may treat a cow's prolapsed vagina. The owner or person in charge of the animal has responsibility to ensure that only competent people perform this procedure.
Submitters' views on proposal	In general, there was agreement regarding the importance of the prolapse being treated as soon as possible and therefore support for a competent person to provide first aid. While industry organisations supported the proposal to allow competent non-veterinarians to perform the procedure, animal advocacy and veterinary groups thought that it should only be performed by veterinarians. There was concern regarding maintenance of competency due to the fact that vaginal prolapses are very rare in cattle, in comparison to sheep. Many submitters thought that the method of retention should be prescribed unless it became veterinarian only. There was strong support for the need for pain relief (i.e. appropriate anaesthesia and analgesia) to be required under the regulation.
Final proposal (post consultation)	1. A person who treats a vaginal prolapse in a cattle beast must: a. be competent; and b. use pain relief authorised by a veterinarian for the purpose of the procedure, throughout the procedure. 2. The owner or person in charge of the cattle beast must not allow it to be treated except in accordance with the clauses above. *A '**prolapse**' is where an organ or anatomical structure falls out of its usual position.*
Proposed penalty	Category C (prosecutable regulatory offence which may result in a criminal conviction). A maximum $3,000 fine for an individual or maximum $15,000 fine for a body corporate for failing to use pain relief when treating a vaginal prolapse in a cow.
Options analysis	
Option 1 - Default to vet only	From May 2020, treating a cow's prolapsed vagina may only be lawfully undertaken by a veterinarian.
Option 2 - Regulate the procedure	Regulate the procedure to specify who can undertake the procedure and how it must be undertaken (as above) with delayed commencement of one year (May 2021).
Option assessment Table	

Option	Effective	Efficient	Clear	Equitable
1.	✓	x	x	—
2.	✓	✓✓	✓✓	✓

Analysis of options against criteria

Option 1 – Default to veterinarian-only

This option would not be effective as it would not provide a legal basis for competent non-veterinarians to continue to treat vaginal prolapses in cattle. However, good animal welfare outcomes may be well served by a veterinarian treating cattle prolapses, because of the technical skill, experience and judgement required as cattle prolapses are reasonably rare (in comparison to prolapses in sheep). There would be additional costs for cattle owners who have previously been carrying out the procedure themselves. There may also be practicality issues with ensuring animals are treated in a timely manner, if there isn't a veterinarian who can attend promptly.

There may be a lack of clarity about whether the procedure is a significant surgical procedure and therefore whether non-veterinarians can continue to treat cattle prolapses.

Under this option, only Act offences and penalties would be available for the most serious animal welfare offending associated with treating cattle prolapses (as is currently the case). Enforcement options for low-level offending would remain limited, and lack of compliance and risks to animal health and welfare may increase as a result.

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	Option 2 – Regulate the procedure (preferred) Regulations will be effective in addressing legal ambiguity by providing a legal basis to allow a competent non-veterinarian to treat cattle prolapses. It would be reasonably effective in terms of good animal welfare outcomes, by allowing the timely treatment by a non-veterinarian of a prolapse to avoid pain and distress of the animal, however this would depend on the competency of that person. It is also cost effective and practical, and if the procedure is performed correctly, will ensure the purposes of the Act are met. Regulation will provide greater clarity about who can undertake the procedure and that pain relief is required. Regulations can set penalties (infringement fees and fines) for breach of any pain relief requirements, which are proportional to the offence, in terms of harm and distress caused to the animal. Penalties can be set which are consistent with those for breach of other regulations, where comparable. Act offences and penalties will also be available for the most serious animal welfare offending.
Rationale	
Due to the potential pain and harm that could be caused if the procedure is not carried out correctly, it is likely that it would meet the criteria of a significant surgical procedure. Without regulations specifying otherwise, only veterinarians would be able to treat vaginal prolapses in cows. MPI considers that due to the urgency required for successful treatment, it is important to allow farmers to treat these prolapses, especially when gaining access to veterinary services in a timely manner can be difficult. *Pain relief* MPI considers that pain relief is necessary for the procedure. A non-veterinarian can be trained to administer pain relief, such as an epidural, for this procedure. In dairy systems, it is more likely that the animal can be moved to a yard to be restrained for treatment and for administration of the appropriate pain relief. However, this is less likely in an extensive cattle farm. In those cases, the farmer must make the decision whether moving the animal or euthanising it would be in the best interests of the animal.	
Expected impact of proposed regulation	
There should be an overall improvement in animal welfare due to the competency and pain relief requirements (although it appears many farmers are already engaging veterinarians to undertake the procedure). There should be only minor impacts for farmers and others who own and treat cattle, as the issue is relatively rare. There may be some impact for people required to demonstrate competency or attend training, and a small increase in costs due to the requirement for pain relief and possibly costs associated with training. Where there is no available competent person, there may be additional costs for cattle farmers who need to engage a veterinarian (as is the case now).	

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2. Sheep – treating vaginal and uterine prolapses	
Background and issues	A vaginal prolapse occurs when a ewe pushes her vagina out of her vulva. Vaginal prolapses, also known as bearings, are relatively more common in sheep than in other animals. They are most common just before lambing. There are multiple causes for vaginal prolapses and the risk increases with factors such as higher foetal numbers, paddock slope near lambing and the ewe having had a previous vaginal prolapse.[8] Industry estimates that approximately 0.5 to 1 percent of breeding ewes in New Zealand experience a vaginal prolapse, but occasionally an individual farm can experience outbreaks affecting up to 10 percent of the ewes. Veterinarians and non-veterinarians treat vaginal prolapses in sheep. Vaginal prolapses are painful and common in sheep and are currently routinely treated by farmers. Uterine prolapses are less common than vaginal prolapses, and generally occur after lambing. A uterine prolapse is generally much larger, as it involves part or all of the uterus turning inside out and passing through the vagina, and is considered more complex to treat and retain. While it is less common for non-veterinarians to treat uterine prolapses, some farmers have indicated they do either treat them or euthanise the sheep. Both types of prolapses need to be treated urgently for the best outcome for the animal.
Proposal consulted on (no. 10 in the 2019 discussion document)	A competent person may treat a sheep's prolapsed vagina. The owner or person in charge of the animal has responsibility to ensure that only competent people perform this procedure.
Submitters' views on proposal	There was general agreement regarding the urgency for prolapse treatment to ensure the best welfare outcome and therefore support for a competent person to provide first aid. There was concern that if the procedure became veterinarian only, the sheep would be euthanised due to cost and accessibility issues. Competency maintenance was considered more achievable for sheep farmers for treating sheep vaginal prolapses than for treating prolapses in other species, due to the higher prevalence of this type of prolapse in sheep and being a smaller animal to manage. Industry supported the proposal; they did not consider requiring pain relief was practical, however, some farmers said that they would provide pain relief if it was available to them. They also supported farmers being able to treat uterine prolapses. Advocacy groups considered the treatment of vaginal prolapses should only be performed by veterinarians but if a competent person is allowed to treat prolapses it should be undertaken with pain relief authorised by a veterinarian. Veterinarians thought veterinarians should treat vaginal prolapses, however, if non-veterinarians were permitted to treat prolapses they need to be appropriately trained in the procedure and to administer pain relief. Some prolapses need surgical fixation using sutures or a commercial prolapse retainer, which pierces the skin. Veterinarians considered that both types of prolapses need anaesthesia (e.g. local anaesthetic infiltration) and training would be required. They also considered that uterine and rectal prolapses in sheep should only be treated by a veterinarian. NAWAC submitted that pain relief should be required where retention involves piercing the skin (e.g. stitches). They suggested local anaesthetic or epidural during the treatment of both types of prolapses and possibly a non-steroidal anti-inflammatory drug, depending on severity of the prolapse. In general, other submitters considered that treatment of uterine and rectal prolapses should be veterinarian only and thought pain relief should be required (i.e. appropriate anaesthesia and analgesia). Many submitters also thought that the method of retention should be prescribed.
Final proposal (post consultation)	1. A competent person may treat a sheep's prolapsed vagina and/or uterus. 2. The owner or person in charge of an animal must ensure that only competent people perform this procedure. *A 'prolapse' is where an organ or anatomical structure falls out of its usual position.*

[8] Sheep and Beef Code of Welfare, page 23.

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Proposed penalty	Existing offences in the Act will be available for cases of the most serious animal welfare offending, such as offending that results in severe harm to an animal or animals.
Options analysis	
Option 1 - Default to vet only	From May 2020, treating a sheep's prolapsed vagina and/or uterus may only be lawfully undertaken by a veterinarian.
Option 2 - Regulate the procedure	Regulate the procedure to allow a competent non-veterinarian to treat sheep prolapses (as above).

Option assessment Table

Option	Effective	Efficient	Clear	Equitable
1.	x	x	x	—
2.	✓	✓✓	✓✓	—

Analysis of options against criteria

Option 1 – Default to veterinarian-only

This option would not be effective as it would not provide a legal basis for competent non-veterinarians to continue to treat sheep prolapses, which may be just as effective for good animal welfare outcomes as engaging a veterinarian. There would be additional costs for farmers who have previously been able to carry out the procedure themselves or utilise the services of a specialist non-veterinarian. If the procedures were veterinarian only, it would be impractical given the potentially large numbers of animals that need to be treated and the need for treatment to be provided urgently. There may be a lack of clarity about whether the procedure is a significant surgical procedure and therefore whether non-veterinarians can continue to treat sheep prolapses.

Under this option, only Act offences and penalties would be available for the most serious animal welfare offending associated with treating sheep prolapses (as is currently the case).

Option 2 – Regulate the procedure (preferred)

Regulations will be effective in addressing legal ambiguity by providing a legal basis to allow a competent non-veterinarian to treat sheep prolapses. It would also be reasonably effective in terms of good animal welfare outcomes, by allowing the timely treatment by a non-veterinarian of sheep prolapses to avoid pain and distress of the animal. It will be cost effective and practical, and if the procedure is performed correctly, will ensure the purposes of the Act are met. Regulating will provide greater clarity about who can undertake the procedure.

For serious animal welfare offending (e.g. if the procedure is performed in such a way that causes suffering to the animal), a person may be prosecuted under the Act and the court can decide what level of penalty is appropriate for that offence, up to a prescribed limit.

Rationale

Due to the potential pain and harm that could be caused if either procedure is not carried out correctly, it is likely that they would meet the criteria of a significant surgical procedure. Without regulations specifying otherwise, only a veterinarian would be able to treat a sheep's prolapsed vagina or uterus. For both types of prolapses, it is in the best interests of the animal to be treated as soon as possible.

Industry estimates that sheep vaginal prolapses occur in approximately 0.5 - 1 percent of breeding ewes, which means around 89,000 -178,000 ewes experience a vaginal prolapse annually.[9] However, occasionally an individual farm can experience outbreaks affecting up to 10 percent of ewes. It is also estimated that uterine prolapses occur in approximately 0.1 to 0.25 percent of the ewe population, which means around 17,800 - 44,500 ewes experience a uterine prolapse annually.

Making the procedures veterinarian only would preclude a competent person from treating a sheep prolapse, meaning the animal may suffer unreasonably while waiting for a veterinarian to arrive. Given the number of ewes affected by prolapses, it would also be impractical, and large numbers of ewes would be euthanised due to the inability to perform first aid. This may also result in the loss of a large number of unborn lambs.

Regulation will enable competent non-veterinarians to continue treating prolapses lawfully. Because vaginal prolapses are common in sheep and are currently routinely treated by farmers, it is considered that many farmers are already experienced and competent or can be trained to treat these prolapses.

[9] Based on the figure of an estimated 17.8 million breeding ewes in 2017 – Statistics New Zealand.

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Expected impact of proposed regulation
There should be good animal welfare outcomes by allowing sheep to be treated by a competent person in a timely manner. There may be some minor time and cost impacts for farmers and farm workers associated with training required to achieve and demonstrate competency.

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3. Goats – treating vaginal prolapses	
Background and issues	A vaginal prolapse occurs when a doe unintentionally pushes her vagina out of her vulva. Causes of vaginal prolapses are multifactorial and while they are relatively common in sheep, they are comparatively rare in goats. However, no data is available on exact numbers regarding prevalence. Some farmers are known to treat vaginal prolapses in goats.
Proposal was not in the 2019 discussion document	Prolapses in goats were not included in the original proposals. Submitters considering proposals for sheep prolapses were asked if non-veterinarians should be able to treat prolapses in other animals not consulted on.
Submitters' views on proposal	Submissions on the proposal acknowledged that vaginal prolapses are painful, and highlighted the importance of the prolapse being treated as soon as possible. They also noted concerns with the maintenance of competency with the procedure due to the problem being rare in goats. While industry organisations supported the proposal to allow competent non-veterinarians to perform the procedure, advocacy groups and the veterinary community thought that it should only be performed by veterinarians.
Final proposal (post consultation)	1. A person who treats a vaginal prolapse in a goat must: a. be competent; and b. use pain relief authorised by a veterinarian for the purpose of the procedure, throughout the procedure. 2. The owner or person in charge of the goat must not allow it to be treated except in accordance with the clauses above. *A 'prolapse' is where an organ or anatomical structure falls out of its usual position.*
Proposed penalty	Category C (prosecutable regulatory offence which may result in a criminal conviction). A maximum $3,000 fine for an individual or maximum $15,000 fine for a body corporate for failing to use pain relief when treating a vaginal prolapse in a goat.
Options analysis	
Option 1 - Default to vet only	From May 2020, treating a goat's prolapsed vagina may only be lawfully undertaken by a veterinarian.
Option 2 - Regulate the procedure	Regulate the procedure to specify who can treat goat prolapses and how it must be undertaken (as above), with delayed commencement of one year (May 2021).
Option assessment Table	

Option	Effective	Efficient	Clear	Equitable
1.	✓	x	x	—
2.	✓	✓✓	✓✓	✓

Analysis of options against criteria

Option 1 – Default to veterinarian-only

This option would not be effective as it would not provide a legal basis for competent non-veterinarians to treat vaginal prolapses in goats. However, good animal welfare outcomes may be well served by a veterinarian treating goat prolapses, because of the technical skill, experience and judgement required as goat prolapses are reasonably rare (in comparison to prolapses in sheep). There would be additional costs for goat owners who have previously been carrying out the procedure themselves. Because vaginal prolapses in goats must be treated as soon as possible for the treatment to be successful, animals may need to be euthanised if not treated in a timely manner (if it was impractical for a veterinarian to attend promptly).

There may be a lack of clarity about whether the procedure is a significant surgical procedure and therefore whether non-veterinarians can continue to treat goat prolapses.

Under this option, only offences and penalties under the Act would be available for the most serious animal welfare offending associated with treating goat prolapses (as is currently the case). Enforcement options for low-level offending would remain limited, and lack of compliance and risks to animal health and welfare may increase as a result.

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	Option 2 – Regulate the procedure (preferred) Regulations will be effective in addressing legal ambiguity by providing a legal basis to allow a competent non-veterinarian to treat vaginal prolapses in goats. It would also be reasonably effective in terms of good animal welfare outcomes, by allowing timely treatment by a non-veterinarian of a prolapse to avoid pain and distress of the animal, however this would depend on the competency of that person. It is cost effective and practical, and if the procedure is performed correctly, will ensure the purposes of the Act are met. Regulating will provide greater clarity about who can undertake the procedure and that pain relief is required. Regulations can set penalties (infringement fees and fines) for breach of the pain relief requirements, which are proportional to the offence, in terms of harm and distress caused to the animal. Penalties can be set which are consistent with those for breach of other regulations, where comparable. Offences and penalties under the Act will also be available for the most serious animal welfare offending.
Rationale	
Due to the potential pain and harm that could be caused if the procedure is not carried out correctly, it is likely that it would meet the criteria of a significant surgical procedure. Without regulations specifying otherwise, only a veterinarian would be able to treat a goat's prolapsed vagina. MPI considers that due to the urgency required for successful treatment, it is important to allow farmers to treat these prolapses, especially when gaining access to veterinary services in a timely manner can be difficult. *Pain relief* MPI considers that pain relief is necessary for the procedure. A non-veterinarian can be trained to administer pain relief for this procedure. In dairy goat systems, it is more likely that the animal can be moved to a yard to be restrained for treatment and for administration of the appropriate pain relief. However, this is less likely in an extensive goat farming system. In those cases, the farmer must make the decision whether moving the animal or euthanising it would be in the best interests for the animal's welfare.	
Expected impact of proposed regulation	
There should be an overall improvement in animal welfare due to the competency and pain relief requirements. There should be only minor impacts for farmers and others who own and treat goats, as the issue is relatively rare. There may be some impact for people required to demonstrate competency or attend training, and a small increase in costs due to the requirement for pain relief and possibly costs associated with training. Where there is no available competent person, there may be additional costs for goat farmers who need to engage a veterinarian (as is the case now).	

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4. Pigs – treating rectal prolapses	
Background and issues	Compared to other farmed animals pigs are more vulnerable to rectal prolapse. Causes include: diarrhoea, constipation, water shortage, rectal damage, toxins and coughing. A rectal prolapse is treated by amputation or by replacement and retention by a suture. A common method of treatment involves insertion of a tube into the rectum. A rubber band is then stretched over the prolapse and placed as near as possible to the perianal skin. The band must be tight enough to stop the blood supply so that the prolapse tissue will die and drop off. The tissue usually drops off within five to seven days. The pig is able to defecate through the tube during this time. Currently, veterinarians and non-veterinarians treat rectal prolapses in pigs.
Proposal consulted on (no. 11 in the 2019 discussion document)	A competent person may treat a pig's prolapsed rectum. The owner or person in charge of the animal has responsibility to ensure that only competent people perform this procedure.
Submitters' views on proposal	There was general agreement regarding the urgency for treatment to ensure the best welfare outcome and therefore support for a competent person being allowed to treat rectal prolapses. The most common method appears to be the tube/band method described in the proposal. The majority agreed pain relief is needed. Industry supported the proposal to permit a competent person to treat rectal prolapses. Advocacy groups considered the procedure should only be performed by veterinarians. However, if a competent person is allowed to treat prolapses then it should be undertaken with pain relief and antibiotics authorised by a veterinarian. The veterinary community thought best practice was having a veterinarian treat rectal prolapses. Alternatively, competent farmers or technicians would need to be appropriately trained in the use of pain relief (e.g. local anaesthetic or epidural) authorised by a veterinarian. They considered pain relief should be required where retention involves piercing the skin (e.g. stitches). NAWAC advised that based on first principles, the innervation of the rectal tissue is visceral (tissue associated with internal organs) which responds to ischaemia (a restriction in blood supply causing a shortage of oxygen needed to keep the tissue alive) and the procedure is therefore unlikely to be painful. On this basis, NAWAC accepted the procedure can be carried out by a competent person and without provision of pain relief.
Final proposal (post consultation)	1. A person who treats a pig's prolapsed rectum must be competent. 2. The owner or person in charge of a pig must ensure that only competent people perform this procedure. *A 'prolapse' is where an organ or anatomical structure falls out of its usual position.*
Proposed penalty	Existing offences in the Act will be available for cases of the most serious animal welfare offending, such as offending that results in severe harm to an animal or animals.
Options analysis	
Option 1 - Default to vet only	From May 2020, treating a pig's prolapsed rectum may only be lawfully undertaken by a veterinarian.
Option 2 - Regulate the procedure	Regulate the procedure to allow a competent non-veterinarian to treat pig rectal prolapses (as above).
Option assessment Table Analysis of options against criteria	<table><tr><th>Option</th><th>Effective</th><th>Efficient</th><th>Clear</th><th>Equitable</th></tr><tr><td>1.</td><td>x</td><td>x</td><td>x</td><td>—</td></tr><tr><td>2.</td><td>✓</td><td>✓✓</td><td>✓✓</td><td>—</td></tr></table> Option 1 – Default to veterinarian-only This option would not be effective as it would not provide a legal basis for competent non-veterinarians to continue to treat pig rectal prolapses, which may be just as effective for good animal welfare outcomes as engaging a veterinarian.
	There may also be practicality issues with ensuring animals are treated in a timely manner, if there isn't a veterinarian who can attend promptly.

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	There would be additional costs for pig owners and farmers who have previously been carrying out the procedure themselves or utilising the services of a specialist non-veterinarian. There may be a lack of clarity about whether the procedure is a significant surgical procedure and therefore whether non-veterinarians can continue to treat pig rectal prolapses. Under this option, only Act offences and penalties would be available for the most serious animal welfare offending associated with treating pig prolapses (as is currently the case). Option 2 – Regulate the procedure (preferred) Regulations will be effective in addressing legal ambiguity by providing a legal basis to allow a competent non-veterinarian to treat pig rectal prolapses. It would also be reasonably effective in terms of good animal welfare outcomes, by allowing the timely treatment by a non-veterinarian of a pig rectal prolapse, however this would depend on the competency of that person. It is also cost effective and practical, and if the procedure is performed correctly, will ensure the purposes of the Act are met. Regulating will provide greater clarity about who can undertake the procedure. For serious animal welfare offending (e.g. if the procedure is performed in such a way that causes suffering to the animal), a person may be prosecuted under the Act and the court can decide what level of penalty is appropriate for that offence, up to a prescribed limit.
Rationale	
Due to the potential pain and harm that could be caused if the prolapse is incorrectly treated, it is likely the procedure will meet the criteria of a significant surgical procedure. Without regulations specifying otherwise, only a veterinarian may be able to treat a pig's rectal prolapse. Rectal prolapses are more common in pigs[10] than other farmed animals, and are currently routinely treated by pig farmers. It is considered that many farmers are already experienced and competent or can be trained to treat prolapses. Maintenance of competence is unlikely to be an issue, due to the amount of exposure pig farmers have in dealing with this issue. It is in the best interests of the animal to be treated as soon as possible. Regulation will enable competent non-veterinarians to continue treating prolapses lawfully. The proposal allows for competent non-veterinarians to treat these prolapses. In 2014, NZ Pork estimated that 670,000 pigs were produced. Although the number of rectal prolapses in pigs is unknown, this is likely to be significant and it is therefore impractical to require a veterinarian to treat all rectal prolapses. MPI proposes to develop educational and communications material to ensure people understand and are able to comply with their obligations. *Pain relief* There is little knowledge regarding the level of pain experienced or best practice for providing pain relief at this time and therefore pain relief will not be a requirement.	
Expected impact of proposed regulation	
There should be good animal welfare outcomes by allowing pigs to be treated by a competent person in a timely manner. There may be some minor time and cost impacts for farmers and farm workers associated with training required to achieve and demonstrate competency.	

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[10] Neumann EJ, Hall WF, Stevenson MA, Morris RS, Ling Min Than J (2014) Descriptive and temporal analysis of post-mortem lesions recorded in slaughtered pigs in New Zealand from 2000 to 2010 , New Zealand Veterinary Journal, 62:3, 110-116, DOI: 10.1080/00480169.2013.853278. This study comprised a dataset of 6.2 million pigs slaughtered in New Zealand abattoirs, and found the prevalence of rectal prolapse was 5.8 percent.

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5. Sheep – restrictions on teat removal	
Background and issues	A supernumerary teat is any teat that is in excess of the normal number of teats. Usually the 'extra' teat is easily identifiable due to the placement, size, and sphincter development. Often supernumerary teats are blind and do not produce milk. However, some have a connection to the main teat and do produce a small amount of milk. The dairy sheep industry in New Zealand is relatively new and small, and it is unclear if supernumerary teats are an issue and how they are managed. (In the bovine dairy industry, supernumerary teats are routinely removed to prevent interference with milking cups, as well as to lower the risk of infection.) Main teat removal is usually undertaken as treatment for an infected or injured teat.
Proposal consulted on (no. 9 in the 2019 discussion document)	A person who removes a supernumerary teat from a sheep that is under 12 weeks of age must be competent, and ensure that the procedure creates a clean cut and does not tear the tissue. Removing a main teat at any age, or a supernumerary teat of a sheep aged 12 weeks and over will be veterinarian only. Pain relief must be used at the time of the procedure. The owner or person in charge of the animal has responsibility to ensure that only competent people perform this procedure.
Submitters' views on proposal	There was mixed support for the proposal. The proposal to make main teat removal a veterinarian-only procedure at any age was supported by a substantial majority of submitters. A large number of submitters disagreed with the proposal relating to supernumerary teats, because they consider the procedure is painful and requires some form of pain relief (e.g. local anaesthetic). Industry organisations supported the proposal. Farmers thought it was acceptable if the procedure was done as soon as possible by a competent person. Advocacy groups supported main teat removal being a veterinarian-only procedure and thought supernumerary teat removal should require pain relief at all ages, but generally supported a competent non-veterinarian performing the procedure. They considered the maximum age without pain relief in the proposal was arbitrary. Concerns were raised that the requirement for a 'clean cut' was ambiguous. Veterinary representative bodies supported main teat removal being a veterinarian-only procedure but differed on whether pain relief should be required for supernumerary teat removal. NAWAC submitted that the 12 week age limit for supernumerary teats appeared to be arbitrary and not related to the age at which pain receptors develop in lambs – which it submitted was by one week of age. Instead, NAWAC suggested that the maximum age without pain relief be lowered to one week. It supported removal of any main teat being a veterinarian-only procedure.
Final proposal (post consultation)	*Supernumerary teat removal under one week of age* 1. A person who removes a supernumerary teat from a sheep that is under one week of age must: a. be competent; and b. ensure that the procedure creates a clean cut and does not tear the tissue. *Supernumerary teat removal over one week of age* 2. A person who removes a supernumerary teat from a sheep that is over one week of age must: a. be competent; and b. ensure that the procedure creates a clean cut and does not tear the tissue; and c. use pain relief authorised by a veterinarian for the purpose of the procedure, throughout the procedure. *Main teat removal at any age* 3. A person who removes a main teat of a sheep must: a. be a veterinarian; and b. use pain relief at the time of the procedure.

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	The owner or person in charge is liable 4. The owner or person in charge of a sheep must not allow its teats to be removed except in accordance with the clauses above.
Proposed penalty	*Supernumerary teats* • Category B (infringement offence which does not result in a criminal conviction). A $500 fee or a maximum $1,500 fine if imposed by the Court may apply for failing to create a clean cut when removing a supernumerary teat. • Category C (prosecutable regulatory offence which may result in a criminal conviction). A maximum $3,000 fine for an individual or maximum $15,000 fine for a body corporate may apply for failing to use pain relief on animals over one week old. *Person who is not veterinarian removing a main teat* Category C (prosecutable regulatory offence which may result in a criminal conviction). A maximum $3,000 fine for an individual or maximum $15,000 fine for a body corporate may apply if a person who is not a veterinarian removes a main teat. *Failure to use pain relief when removing a main teat* Category C (prosecutable regulatory offence which may result in a criminal conviction). A maximum $3,000 fine for an individual or maximum $15,000 fine for a body corporate may apply if a veterinarian fails to use pain relief when removing a main teat.
Options analysis	
Option 1 - Default to vet only	From May 2020, removing sheep teats may only be lawfully undertaken by a veterinarian.
Option 2 - Regulate the procedure	Regulate sheep teat removal to specify who can do it, how it is done and when it can be done (as above).
Option assessment Table	

Option	Effective	Efficient	Clear	Equitable
1.	✓	x	x	—
2.	✓	✓	✓✓	✓✓

Analysis of options against criteria

Option 1 – Default to veterinarian-only

This option would not be effective as it would not provide a legal basis for competent non-veterinarians to continue to undertake some sheep teat removal. Defaulting to a veterinarian-only procedure would be reasonably effective for animal welfare outcomes for some teat removal, for example removing main teats, which requires technical skill and the administration of pain relief. For other kinds of teat removal, good animal welfare may be just as well served by a competent non-veterinarian, for example removing supernumerary teats according to good practice (i.e. using a clean cut when the lamb is young, using pain relief as appropriate).

There would be additional costs for sheep farmers, who have previously been able to carry out teat removal themselves or utilise the services of a specialist non-veterinarian, because they would have to engage a veterinarian in some cases with no additional animal welfare benefit.

If regulations are not made setting out good practice rules, there may be a lack of clarity about whether the procedure is a significant surgical procedure and therefore whether non-veterinarians can continue to remove some sheep teats.

Under this option, only Act offences and penalties would be available for the most serious animal welfare offending associated with sheep teat removal (as is currently the case). Enforcement options for low-level offending would remain limited, and lack of compliance and risks to animal health and welfare may increase as a result.

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	Option 2 – Regulate the procedure (preferred) Regulations will be effective in addressing legal ambiguity by providing a legal basis to allow a non-veterinarian to remove sheep teats. Regulating to provide clear rules and standards on sheep teat removal would contribute to good animal welfare outcomes according to the purpose of the Act, by stating who should undertake the procedure (a competent non-veterinarian or a veterinarian), and including detail about restrictions on the age of the animal, requirements for pain relief and/or veterinarian oversight. Permitting competent people to remove some sheep teats is also practical and cost effective, as a veterinarian does not have to be engaged in all circumstances. Under this option, compliance with good practice will be encouraged by providing greater clarity about which acts and omissions would constitute a breach of the requirements and setting appropriate penalties for breaches. Regulations can set penalties (infringement fees and fines) for breach of any requirements (e.g. pain relief, age restrictions), which are proportional to the offence, in terms of harm and distress caused to the animal. Penalties can be set which are consistent with those for breach of other regulations, where comparable. Regulations would therefore give MPI a mechanism to issue infringements for low- and medium-level offences relating to breach of the regulations. Act offences and penalties will also be available for the most serious animal welfare offending.

Rationale

Teat removal of any kind is likely to meet the criteria for a significant surgical procedure. Where supernumerary teat removal is being performed, it is likely that it is being done on-farm by competent non-veterinarians. Without regulation this procedure will be veterinarian only.

Lowering the maximum age for no pain relief to one week

MPI agrees with NAWAC and other submitters, who thought the age limit for removing supernumerary teats without pain relief should be lowered to one week. This is the maximum age that the sheep's pain receptors will be developed. Industry representatives advised they did not tend to remove extra teats and so the lowered age would not affect them. Lowering the age therefore improves animal welfare, without affecting those who currently work in the industry.

Allowing non-veterinarians to remove supernumerary teats after one week of age

Removing a supernumerary teat is often a straightforward procedure that can easily be performed by a competent non-veterinarian. It is practical to allow a competent non-veterinarian to remove a supernumerary teat at any age, as long as they use pain relief, authorised by a veterinarian, after one week of age.

Expected impact of proposed regulation

There should be an overall improvement in animal welfare due to the age restrictions, and requirements for veterinarian treatment and pain relief.

There should be only minor impacts for dairy sheep owners, as removal of supernumerary teats in the sheep dairy industry does not appear to be a well-established procedure.

However, requirements to use pain relief may increase costs where it is not currently being used (i.e. for supernumerary teat removal over one week of age), and from increased veterinary involvement (i.e. where a person has previously removed an infected teat instead of calling in a veterinarian). For example, one submitter noted they had around 10 instances a year of having to remove infected teats (main and supernumerary), which at $150-$200 per veterinarian callout, would amount to an increase of $1,500-$2,000 a year.

Anecdotally, MPI understands that unless the sheep is a valuable animal, where pain relief or a veterinarian call out is needed the sheep is more likely to be euthanised. The proposal may therefore result in more sheep being euthanised.

MPI considers this to be a preferable alternative to causing a sheep unnecessary pain and distress by removing infected or injured teats without pain relief.

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6. Goats – restrictions on teat removal	
Background and issues	A supernumerary teat is any teat that is in excess of the normal number of teats. Usually the 'extra' teat is easily identifiable due to the placement, size, and sphincter development. Supernumerary teats in goats are removed to prevent them from interfering with milking cups, which can in turn damage the teat, resulting in infection and mastitis. A common practice is making a clean cut with sharp scissors, followed by some sort of antiseptic or iodine sprayed onto the wound afterwards. Where supernumerary goat teat removal is being performed, it is likely that it is being done on-farm by non-veterinarians. Anecdotally, MPI understands that supernumerary teats are sometimes removed by farm contractors at the same time as disbudding, in the same way as cattle supernumerary teats are removed during disbudding, to prevent double handling of the animals. Main teat removal is usually undertaken as treatment for an infected or injured teat.
Proposal consulted on (no. 14 in the 2019 discussion document)	A person who removes a supernumerary teat from a goat that is under 12 weeks of age must be competent, and ensure that the procedure creates a clean cut and does not tear the tissue. Removing a main teat at any age, or a supernumerary teat of a goat aged 12 weeks and over will be veterinarian only. Pain relief must be used at the time of the procedure. The owner or person in charge of the animal has responsibility to ensure that only competent people perform this procedure.
Submitters' views on proposal	There was mixed support for the proposal, the majority of submitters wanted changes to be made to the proposal relating to supernumerary teat removal. The proposal to make main teat removal a veterinarian-only procedure at any age was supported by the majority of submitters. In general, those that supported the proposal relating to supernumerary teats thought that it captured what is current practice. There was, however, a large number of submitters who disagreed with the proposal relating to supernumerary teats. Generally, submitters thought that pain relief should be required at all ages, whether performed by a competent non-veterinarian or a veterinarian. Some submitters also thought that all teat removal should be veterinarian only, including several who thought that the procedure should only be performed as a result of injury or disease (therapeutic reasons). Industry supported the proposal. Individual farmers also supported the proposal, most noting that the procedure was done as soon as possible, sometimes within 24 hours of birth. Advocacy groups supported main teat removal being a veterinarian-only procedure and considered that supernumerary teat removal should require pain relief at all ages. However, they generally supported a competent non-veterinarian doing the procedure with pain relief (e.g. local anaesthetic or topical gels). Advocacy groups also considered that the maximum age without pain relief was arbitrary. Veterinary representative bodies supported main teat removal being a veterinarian-only procedure. They differed on whether pain relief should be required for supernumerary teat removal but agreed the maximum age for supernumerary teat removal without pain relief should be less than 12 weeks. NAWAC submitted that the 12 week age limit for supernumerary teats appeared to be arbitrary and not related to the age at which pain receptors develop in kids – which it submitted was by one week of age. Instead, NAWAC suggested that the maximum age without pain relief be lowered to one week. It supported removal of any main teat being a veterinarian-only procedure.
Final proposal (post consultation)	*Supernumerary teat removal under four weeks of age* 1. A person who removes a supernumerary teat from a goat that is under four weeks of age must: a. be competent; and b. ensure that the procedure creates a clean cut and does not tear the tissue. *Supernumerary teat removal over four weeks of age* 2. A person who removes a supernumerary teat from a goat that is over four weeks of age must: a. be competent; and

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b. ensure that the procedure creates a clean cut and does not tear the tissue; and

c. use pain relief authorised for the purpose of the procedure, throughout the procedure.

Main teat removal at any age

3. A person who removes a main teat of a goat must:

a. be a veterinarian; and

b. use pain relief at the time of the procedure.

The owner or person in charge is liable

4. The owner or person in charge of a goat must not allow its teats to be removed except in accordance with the clauses above.

Proposed penalty

Supernumerary teats

- Category B (infringement offence which does not result in a criminal conviction). A $500 fee or a maximum $1,500 fine if imposed by the Court may apply for failing to create a clean cut when removing a supernumerary teat.
- Category C (prosecutable regulatory offence which may result in a criminal conviction). A maximum $3,000 fine for an individual or maximum $15,000 fine for a body corporate may apply for failing to use pain relief on animals over four weeks old.

Person who is not veterinarian removing a main teat

Category C (prosecutable regulatory offence which may result in a criminal conviction). A maximum $3,000 fine for an individual or maximum $15,000 fine for a body corporate may apply if a person who is not a veterinarian removes a main teat.

Failure to use pain relief when removing a main teat

Category C (prosecutable regulatory offence which may result in a criminal conviction). A maximum $3,000 fine for an individual or maximum $15,000 fine for a body corporate may apply if a veterinarian fails to use pain relief when removing a main teat.

Options analysis

Option 1 - Default to vet only

From May 2020, removing goat teats may only be lawfully undertaken a by veterinarian.

Option 2 - Regulate the procedure

Regulate goat teat removal to specify who can do it, how it is done and when it can be done (as above).

Option assessment Table

Option	Effective	Efficient	Clear	Equitable
1.	✓	x	x	—
2.	✓	✓	✓✓	✓✓

Analysis of options against criteria

Option 1 – Default to veterinarian-only

This option would not be effective as it would not provide a legal basis for competent non-veterinarians to continue to undertake some goat teat removal. Defaulting to a veterinarian-only procedure would be reasonably effective for animal welfare outcomes for some teat removal, for example removing main teats, which requires technical skill and the administration of pain relief. For other kinds of teat removal, good animal welfare may be just as well served by a competent non-veterinarian, for example removing supernumerary teats according to good practice (i.e. using a clean cut when the goat is young, using pain relief as appropriate).

There would be additional costs for goat farmers, who have previously been able to carry out teat removal themselves or utilise the services of a specialist non-veterinarian, because they would have to engage a veterinarian in some cases with no additional animal welfare benefit.

If regulations are not made setting out good practice rules, there may be a lack of clarity about whether the procedure is a significant surgical procedure and therefore whether owners, farmers and others involved with goat farming could continue to remove some goat teats.

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	Under this option, only Act offences and penalties would be available for the most serious animal welfare offending associated with goat teat removal (as is currently the case). Enforcement options for low-level offending would remain limited, and lack of compliance and risks to animal health and welfare may increase as a result. Option 2 – Regulate the procedure (preferred) Regulations will be effective in addressing legal ambiguity by providing a legal basis to allow a non-veterinarian to remove some goat teats. Regulating to provide clear rules and standards on goat teat removal would contribute to good animal welfare outcomes according to the purpose of the Act, by stating who should undertake the procedure (a competent non-veterinarian or a veterinarian), and including detail about restrictions on the age of the animal, requirements for pain relief and/or veterinarian oversight. Permitting competent people to remove some goat teats is also practical and cost effective, as a veterinarian does not have to be engaged in all circumstances. Under this option, compliance with good practice will be encouraged by providing greater clarity about which acts and omissions would constitute a breach of the requirements and setting appropriate penalties for breaches. Regulations can set penalties (infringement fees and fines) for breach of any requirements (e.g. pain relief, age restrictions), which are proportional to the offence, in terms of harm and distress caused to the animal. Penalties can be set which are consistent with those for breach of other regulations, where comparable. Regulations would therefore give MPI a mechanism to issue infringements for low- and medium-level offences relating to breach of the regulations. Offences and penalties under the Act will also be available for the most serious animal welfare offending.
Rationale	
Teat removal of any kind is likely to meet the criteria for a significant surgical procedure. Without regulation this procedure would be veterinarian only. *Lowering the maximum age for no pain relief to four weeks* Removing a supernumerary teat is often a straightforward procedure that can easily be performed by a competent non-veterinarian. Allowing supernumerary teats to be removed by a competent non-veterinarian up to four weeks aligns with goat disbudding (generally carried out around the same time), and therefore allows for both procedures to be done in one handling. Although pain relief is not mandated up to four weeks, if the procedure is undertaken at the same time as disbudding, it is more likely the kids will be sedated or receive pain relief (as pain relief will be required for disbudding). The proposal is therefore practical and better for animal welfare. *Allowing non-veterinarians to remove supernumerary teats after four weeks of age* After four weeks competent non-veterinarians can still perform the removal of a supernumerary teat, as long as they use pain relief.	
Expected impact of proposed regulation	
There should be an overall improvement in animal welfare due to the age restrictions, and requirements for veterinarian treatment and pain relief. There should be only minor impacts for dairy goat owners, as the proposal largely reflects what MPI understands is current practice. There may be some cost impacts relating to the requirements to use pain relief for supernumerary teat removal over four weeks of age and possible increased veterinary involvement (i.e. where a person has previously removed an infected teat instead of calling in a veterinarian).	

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7. Cattle – restrictions on teat removal	
Background and issues	A supernumerary teat is any teat that is in excess of the normal number of teats. Usually the 'extra' teat is easily identifiable due to the placement, size, and sphincter development. It is common practice in the dairy industry for supernumerary teats to be removed by the farmer or a contractor at the same time as disbudding. They are removed to prevent interference with milking cups, but can also cause medical issues for the cow later in life. Main teat removal is usually undertaken as treatment for an infected or injured teat. Supernumerary teat removal is currently performed by competent non-veterinarians. If this procedure becomes veterinarian only, this is likely to have a large economic impact on the dairy industry. There have been some compliance concerns with farmers removing teats on cattle using inappropriate methods, such as using rubber rings or removing a main teat without pain relief.
Proposal consulted on (no. 21 in the 2019 discussion document)	A person who removes a supernumerary teat from a cattle beast that is under 12 weeks of age must be competent, ensure that the procedure creates a clean cut and does not tear the tissue. Removing a main teat at any age, or a supernumerary teat of a cattle beast aged 12 weeks and over, will be veterinarian only. Pain relief must be used at the time of the procedure. The owner or person in charge of the animal has responsibility to ensure that only competent people perform this procedure.
Submitters' views on proposal	There was mixed support for the proposal. All submitters supported the removal of a main teat being veterinarian only. Submitters who supported the proposal for supernumerary teats generally considered that it captured what is current practice. The majority of submitters who opposed the proposal for supernumerary teat removal considered that pain relief should be required at all ages, or that it should become a veterinarian-only procedure. Industry organisations and farmers generally supported the proposal. Best practice was said to be between two to eight weeks of age (for supernumerary teat removal). Advocacy groups supported the proposal relating to main teat removal, but generally opposed the proposal relating to supernumerary teats. They considered it should require pain relief at all ages, but held mixed views on whether a competent non-veterinarian could perform the procedure or not. Veterinary organisations supported main teat removal being a veterinarian-only procedure and agreed with the proposal for supernumerary teat removal, one however thought the maximum age should be reduced to ten weeks of age. NAWAC submitted that pain reactors develop in calves by one week of age and therefore thought that supernumerary teat removal should be carried out with pain relief at all ages. While there would be some practicality issues in providing pain relief for the procedure, NAWAC noted the person removing the teat would already be using local anaesthetic for disbudding. A delayed commencement may be required, a maximum of 12 months.
Final proposal (post consultation)	*Supernumerary teat removal under 10 weeks of age* 1. A person who removes a supernumerary teat from a cattle beast that is under 10 weeks of age must: a. be competent; and b. ensure that the procedure creates a clean cut and does not tear the tissue. *Supernumerary teat removal over 10 weeks of age* 2. A person who removes a supernumerary teat from a cattle beast that is over 10 weeks of age must: a. be competent; and b. ensure that the procedure creates a clean cut and does not tear the tissue; and c. use pain relief authorised for the purpose of the procedure, throughout the procedure.

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	Main teat removal at any age 3. A person who removes a main teat of a cattle beast must: a. be a veterinarian; and b. use pain relief at the time of the procedure. *The owner or person in charge of the animal is liable* 4. The owner or person in charge of a cattle beast must not allow its teats to be removed except in accordance with the clauses above.
Proposed penalty	*Supernumerary teats* • Category B (infringement offence which does not result in a criminal conviction). A $500 fee or a maximum $1,500 fine if imposed by the Court may apply for failing to create a clean cut when removing a supernumerary teat. • Category C (prosecutable regulatory offence which may result in a criminal conviction). A maximum $3,000 fine for an individual or maximum $15,000 fine for a body corporate may apply for failing to use pain relief on animals over ten weeks old). *Person who is not veterinarian removing a main teat* Category C (prosecutable regulatory offence which may result in a criminal conviction). A maximum $3,000 fine for an individual or maximum $15,000 fine for a body corporate may apply if a person who is not a veterinarian removes a main teat. *Failure to use pain relief when removing a main teat* Category C (prosecutable regulatory offence which may result in a criminal conviction). A maximum $3,000 fine for an individual or maximum $15,000 fine for a body corporate may apply if a veterinarian fails to use pain relief when removing a main teat.
Options analysis	
Option 1 - Default to vet only	From May 2020, removing cattle teats may only be lawfully undertaken by a veterinarian.
Option 2 - Regulate the procedure	Regulate cattle teat removal to specify who can do it, how it is done and when it can be done (as above).
Option assessment Table	

Option	Effective	Efficient	Clear	Equitable
1.	✓	x x	x	—
2.	✓	✓✓	✓✓	✓✓

Analysis of options against criteria

Option 1 – Default to veterinarian-only

This option would not be effective as it would not provide a legal basis for competent non-veterinarians to continue to undertake some calf or cattle teat removal. Defaulting to a veterinarian-only procedure would be reasonably effective for animal welfare outcomes for some teat removal, for example removing main teats, which requires technical skill and the administration of pain relief. For other kinds of teat removal, good animal welfare may be just as well served by a competent non-veterinarian, for example removing supernumerary teats according to good practice (i.e. using a clean cut when the calf is reasonably young, and using pain relief if the calf is older).

There would be additional costs for dairy cattle farmers, who have previously been able to carry out teat removal themselves or utilise the services of a specialist non-veterinarian, because they would have to engage a veterinarian in some cases with no additional animal welfare benefit.

If regulations are not made setting out good practice rules, there may be a lack of clarity about whether the procedure is a significant surgical procedure and therefore whether farmers and others involved with dairy cattle farming could continue to remove some cattle teats.

Under this option, only Act offences and penalties would be available for the most serious animal welfare offending associated with cattle teat removal (as is currently the case). Enforcement options for low-level offending would remain limited, and lack of compliance and risks to animal health and welfare may increase as a result.

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	Option 2 – Regulate the procedure (preferred) Regulations will be effective in addressing legal ambiguity by providing a legal basis to allow a non-veterinarian to remove some cattle teats. Regulating to provide clear rules and standards on cattle teat removal would contribute to good animal welfare outcomes according to the purpose of the Act, by stating who should undertake the procedure (a competent non-veterinarian or a veterinarian), and including detail about restrictions on the age of the animal, requirements for pain relief and/or veterinarian oversight. Permitting competent people to remove some cattle teats is also practical and cost effective, due to the large number of animals involved. Under this option, compliance with good practice will be encouraged by providing greater clarity about which acts and omissions would constitute a breach of the requirements and setting appropriate penalties for breaches. Regulations can set penalties (infringement fees and fines) for breach of any requirements (e.g. pain relief, age restrictions), which are proportional to the offence, in terms of harm and distress caused to the animal. Penalties can be set which are consistent with those for breach of other regulations, where comparable. Regulations would therefore give MPI a mechanism to issue infringements for low- and medium-level offences relating to breach of the regulations. Offences and penalties under the Act will also be available for the most serious animal welfare offending.
Rationale	
Teat removal of any kind is likely to meet the criteria for a significant surgical procedure. Without regulation this procedure would be veterinarian-only. *Lowering the maximum age for no pain relief to 10 weeks* Removing a supernumerary teat is often a straightforward procedure that can easily be performed by a competent non-veterinarian. Allowing supernumerary teats to be removed by a competent non-veterinarian up to ten weeks aligns with calf disbudding (generally carried out around the same time), and therefore allows for both procedures to be done in one handling. Although pain relief is not mandated up to ten weeks, if the procedure is undertaken at the same time as disbudding, it is more likely the calves will be sedated or receive pain relief (as pain relief will be required for disbudding). The proposal is therefore practical and better for animal welfare. *Allowing non-veterinarians to remove supernumerary teats after ten weeks of age* After ten weeks competent non-veterinarians can still perform the removal of a supernumerary teat, as long as they use pain relief.	
Expected impact of proposed regulation	
There should be an overall improvement in animal welfare due to the age restrictions, and requirements for veterinarian treatment and pain relief. There should be only minor impacts for dairy cattle owners, as the proposal largely reflects what MPI understands is current practice. There may be some cost impacts relating to the requirements to use pain relief for supernumerary teat removal over ten weeks of age and possible increased veterinary involvement (i.e. where a person has previously removed an infected teat instead of calling in a veterinarian).	

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8. Pigs and cattle – application of nose rings, clips and wires	
Background and issues	Nose rings, clips and wires are inserted regularly by non-veterinarians and veterinarians into pigs and cattle. The insertion of nose rings clips and wires is painful, as they are generally pushed through the soft tissue (the most sensitive part) of the nose. For pigs, nose rings, clips and wires are inserted because they make digging uncomfortable, which restricts them from rooting behaviour. The procedure is carried out as a way of protecting the environment from soil damage and destruction caused by the rooting. MPI understands that approximately 90 percent of the outdoor sows (free range pigs for meat production) have nose rings inserted and that nose rings and clips are regularly inserted into farmed and lifestyle block pigs by non-veterinarians and veterinarians. It is unclear whether the use of nose wires in pigs is common. Nose ringing of bulls is reasonably widespread for those kept for stud purposes over the age of two years, to help handlers manage them safely and securely. In some cases, rings are placed in the nasal septum of cattle for showing purposes. MPI is not aware of how widespread the use of nose clips and wires is on cattle.
Proposal consulted on (no. 12 in the 2019 discussion document)	A competent person may insert a nose ring, clip or wire into a pig's or cattle beast's nose, for animal management purposes. The owner or person in charge of the animal has responsibility to ensure that only competent people perform this procedure.
Submitters' views on proposal	Submissions were split over the proposal; overall slightly more submitters disagreed with it than supported it. Industry agreed with the proposal, although one (NZ Pork) advised it discourages the use of wires in pigs as wires are difficult and take longer to insert. Advocacy groups, veterinarian organisations, and just under half of individual submitters all disagreed with the proposal, for reasons including the procedure: is painful and unnecessary; should be prohibited; should only be carried out by a veterinarian and pain relief should be administered. In the case of pigs, submitters thought pigs should be allowed to practice natural behaviour. Most of the veterinary community and advocacy groups thought wires should be banned, due to the procedure taking longer, and being more painful and distressing to the animal. Those who agreed with the proposal did so because they thought the procedures are minor and because a competent person can undertake them as well as a veterinarian. NAWAC discourages the insertion of nose rings in pigs, given the purpose is to prevent the expression of natural behaviours by the animal, with no apparent benefit. However, NAWAC acknowledged the practical constraints of managing pigs in an outdoor environment and on this basis submitted: the attachment of wires to pig noses should be prohibited; the application of a ring in the nasal septum of a pig should be a veterinarian-only procedure with pain relief; and sedation may be necessary (due to the stress of restraining the pig to apply local anaesthetic). NAWAC preferred nose clips to be used for pigs (because less stressful and less invasive than wires or rings), which could be inserted by a competent person without pain relief. NAWAC preferred the use of pain relief (local anaesthetic rather than sedation) for application of nose rings to cattle but agreed to the procedure being carried out by a competent operator without pain relief, since cattle handling and ring insertion are generally easier than in pigs.
Final proposal (post consultation)	*Nose ringing or clipping a pig or cattle beast* 1. A person who inserts a pig or cattle nose ring or clip must: a. be competent; and b. insert the nose ring or clip for animal management purposes only. *The use of wire is prohibited* 2. The insertion of wire into the noses of pigs and cattle beasts is prohibited. *The owner or person in charge of the animal is liable* 3. The owner or person in charge a pig or cattle beast must ensure that its nose is not ringed in breach of any of the clauses above.

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Proposed penalty	Category C (prosecutable regulatory offence which may result in a criminal conviction). A maximum $3,000 fine for an individual or maximum $15,000 fine for a body corporate may apply for inserting a nose ring or nose clip into a pig or cattle beast for purposes other than animal management. Category D (prosecutable regulatory offence which may result in a criminal conviction). A maximum $5,000 fine for an individual or maximum $25,000 fine for a body corporate for breaching the prohibition on inserting wire into a cattle beast or pig's nose.
Options analysis	
Option 1 - Default to vet only	From May 2020, inserting nose rings, clips and wires in pigs and cattle may only be lawfully undertaken by a veterinarian.
Option 2 - Regulate the procedure	Regulate to allow a competent non-veterinarian to insert nose rings and clips in pigs and cattle and to prohibit the insertion of nose wires (as above).
Option assessment Table	

Option	Effective	Efficient	Clear	Equitable
1.	✓	x	x	—
2.	✓	✓✓	✓✓	✓

Analysis of options against criteria

Option 1 – Default to veterinarian-only

If the procedures default to being veterinarian only there would not be an effective legal basis for competent non-veterinarians to continue to perform them. However, this option would be effective for animal welfare because only veterinarians would be able to nose ring pigs and cattle and they would have the technical skill, experience and judgement required, and administer pain relief if appropriate.

There would be additional costs and practicality issues for cattle and pig farmers and owners, who have previously been able to carry out the procedures themselves or utilise the services of a specialist non-veterinarian.

There may be a lack of clarity about whether the procedure is a significant surgical procedure and therefore whether non-veterinarians can continue to do these procedures.

Under this option, only Act offences and penalties would be available for the most serious animal welfare offending associated with inserting cattle and pig nose clips, rings and wires (as is currently the case).

Option 2 – Regulate the procedure (preferred)

Regulations will be effective in addressing legal ambiguity by providing a legal basis to allow a non-veterinarian to continue nose ringing or clipping pigs and cattle.

Animal welfare will be improved by banning nose wires, the insertion of which is painful and distressing (because it takes longer than the other methods).

Regulating to allow competent people to undertake the insertion of nose clips and rings will be cost effective because a farmer or lifestyle block owner will not need to engage a veterinarian. This is particularly the case where there are large numbers of pigs or bulls on a farm for which nose ringing is considered necessary for animal management purposes.

Regulations can set penalties (infringement fees and fines) for breach of the requirements and prohibition on nose wires, which are proportional to the offence, in terms of harm and distress caused to the animal. Penalties can be set which are consistent with those for breach of other regulations, where comparable. Act offences and penalties will also be available for the most serious animal welfare offending.

Rationale

Depending on the method and place of insertion, nose ringing and clipping may meet the criteria for a significant surgical procedure. Without regulations specifying otherwise, only a veterinarian would be able to undertake the procedure.

There is a lack of scientific knowledge about pain and the efficacy of pain relief related to the insertion of nose rings, clips and wires in pig and cattle. Rather, scientific research has focussed on the long-term welfare impacts of ringing pigs and the effectiveness of nose ringing on limiting rooting.

Based on submissions, MPI recommends prohibiting the insertion of wires through the nose of a pig or cattle beast due to the greater pain and stress resulting from the insertion method and the difficulty in inserting the wire.

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The proposal balances the likely animal welfare benefit of requiring pain relief when inserting nose rings and clips into pigs and cattle against the cost and practicality of such a requirement. This is because such a requirement would add more stress to the animal, due to the increased time to restrain it in order to administer the pain relief, and would be costly and time consuming (both in terms of procuring veterinarian services and carrying out the procedure itself).
Expected impact of proposed regulation
The proposed regulation is likely to have a small positive impact on overall animal welfare by prohibiting nose wires in pigs and cattle and by requiring competency. For farmers and others involved with the care of pigs and cattle, the proposal is likely to have minimal or no impact, as it largely reflects current practice.

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9. Goats – restrictions on castration	
Background and issues	Goats are commonly castrated in the fibre and meat industries, to control breeding, reduce aggression and facilitate management. Stock are left uncastrated if they are to be sent to the works young or kept for breeding, and goats in the dairy industry are not usually castrated. Castration typically occurs before goats reach sexual maturity. Almost all goat castrations are understood to be performed by applying rubber rings above the testicles to restrict blood flow, causing necrosis of the testicles, which fall off over the course of a few weeks. Goat castration is predominantly performed by farmers without pain relief when the goats are between four - six months of age. As of 2017 there were approximately 98,812 goats in New Zealand.[11] They are farmed for milk, meat, fibre, as well as to manage vegetation (organic weed control). The industry involves approximately: 66,100 dairy goats; 7,715 meat goats; and 9,320 fibre goats.[12]
Proposal consulted on (no. 13 in the 2019 discussion document)	MPI proposes aligning the obligations for castrating goats with the current regulations for castrating cattle beasts and sheep in the Animal Welfare (Care and Procedures) Regulations 2018. The current regulation for cattle beasts and sheep requires: • the procedure to be undertaken by a person experienced with, or having received training in, the correct use of the method being used, and who is able to recognise early signs of significant distress, injury, or ill-health so that the person can take prompt remedial action or seek advice; and • that animals castrated over six months of age, and/or using a high tension band, must, throughout the procedure, be under the influence of an appropriately placed and effective local anaesthetic that is authorised by a veterinarian for the purpose of the procedure. The owner or person in charge of the animal has responsibility to ensure that only competent people perform this procedure according to the specifications in this proposal.
Submitters' views on proposal	About half of submitters agreed with the proposal but believed the six month age restriction was too old. Submitters noted that the nerves of goats are fully developed at one week of age and some goats have reached sexual maturity at four months of age. Suggestions for a younger age ranged from one week to five months. Many farmers confused the use of high-tension bands with the use of rubber rings and based their disagreement on this misunderstanding. Advocacy groups and the veterinary community supported the use of pain relief for the procedure, with veterinary organisations suggesting a possible three month age limit without pain relief.
Final proposal (post consultation)	*Castrating a goat under six months of age* 1. A person who castrates a goat that is under six months of age must be competent. *Castrating a goat over six months of age* 2. A person who castrates a goat that is over six months of age must: a. be competent; and b. use pain relief that is authorised by a veterinarian for the purpose of the procedure, throughout the procedure. *Castrating a goat with a high tension band* *3.* A person who castrates a goat at any age with a high tension band must: a. be competent; and

[11] Additional tables in the 2017 Agricultural production statistics, Stats NZ.

[12] Lopez-Lozano, R., Scholtens, M., and Smith, R. (9 March 2017). New Zealand Goat Industry: Report to Federated Farmers of New Zealand Incorporated. Massey University. p 22.

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b. use pain relief that is authorised by a veterinarian for the purpose of the procedure, throughout the procedure.

The owner or person in charge of the animal is liable

4. The owner or person in charge of a goat must not allow it to be castrated except in accordance with the clauses above.

*A '**high tension band**' is a band that is mechanically tightened during application, with tension maintained by a crimp or similar device when the band is released from the applicator.*

Proposed penalty

Category C (prosecutable regulatory offence which may result in a criminal conviction). A maximum $3,000 fine for an individual or maximum $15,000 fine for a body corporate may apply for failing to use pain relief when castrating a goat over six months of age or failing to use pain relief when castrating a goat with a high tension band.

Options analysis

Option 1 - Default to vet only

From May 2020, castration of goats of all ages may only be lawfully undertaken by a veterinarian.

Option 2 - Regulate the procedure

Regulate the castration of goats to set standards relating to who may castrate goats, permitted methods for the procedure and pain relief (as above).

Option assessment

Table

Option	Effective	Efficient	Clear	Equitable
1.	✓	x	x	—
2.	✓	✓✓	✓✓	✓✓

Analysis of options against criteria

Option 1 – Default to veterinarian-only

This option would not be effective as it would not provide a legal basis for competent non-veterinarians to continue to perform goat castration.

Defaulting to a veterinarian-only procedure would be effective for animal welfare in some respects, as veterinarians are more likely to administer pain relief during and/or after the procedure.

There would be additional costs for farmers who have previously been able to carry out the procedure themselves or utilise the services of a specialist non-veterinarian.

If regulations are not made setting out good practice rules for goat castration there may be a lack of clarity about whether the procedure is a significant surgical procedure and therefore whether goat owners, goat farmers and others involved with dairy goat farming could continue to undertake goat castration.

Under this option, only Act offences and penalties would be available for the most serious animal welfare offending associated with goat castration (as is currently the case). Enforcement options for low-level offending would remain limited, and lack of compliance and risks to animal health and welfare may increase as a result.

Option 2 – Regulate the procedure (preferred)

Regulations will be effective in addressing legal ambiguity by providing a legal basis to allow a non-veterinarian to continue castrate goats.

Regulating to provide clear rules and standards on goat castration would contribute to good animal welfare outcomes according to the purpose of the Act, by stating who should undertake the procedure (a competent non-veterinarian or a veterinarian), and including requirements as to age restrictions of the animal, pain relief for certain methods or if the goat is over a certain age.

Permitting competent people to undertake goat castration is also practical and cost effective, due to there being a potentially large number of animals involved.

Under this option, compliance with good practice will be encouraged by providing greater clarity about which acts and omissions would constitute a breach of the requirements and setting appropriate penalties for breaches.

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	Regulations can set penalties (infringement fees and fines) for breach of any requirements (e.g. pain relief, age restrictions), which are proportional to the offence, in terms of harm and distress caused to the animal. Penalties can be set which are consistent with those for breach of other regulations, where comparable. Regulations will therefore give MPI a mechanism to issue infringements for low- and medium-level offences relating to breach of the regulations. Act offences and penalties will also be available for the most serious animal welfare offending.

Rationale

Goat castration is likely to meet the criteria for a significant surgical procedure. Without regulation, this procedure would be veterinarian-only.

Cattle and sheep castration has been regulated in the Animal Welfare (Care and Procedures) Regulations 2018. For consistency, clarity and enforceability it is advisable to regulate the minimum standards for goat castration as well, to similar standards.

Pain relief

Obligating pain relief from 1 week of age would be impractical for goat farmers. Pain relief is a requirement for goats over six months or if a high tension band is used. However, unlike the sheep and cattle castration regulation, 'local anaesthetic' has been substituted with 'pain relief' in this proposal, so that veterinarians will be able to determine what pain relief is appropriate for the procedure. There may be instances where general anaesthetic or a new form of pain relief is appropriate.

Expected impact of proposed regulation

The proposed regulation is likely to have a positive impact overall for animal welfare by requiring competency and ensuring a veterinarian will be required when the goat is older and the procedure may have a greater welfare impact.

The regulation reflects minimum standards so there should be no impact on current practice except for those already failing to meet minimum welfare obligations.

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10. Goats – restrictions on disbudding	
Background and issues	Disbudding is the destruction of the free-floating immature horn tissue on animals to prevent horns growing. It is commonly performed in dairy goats for human safety reasons and to prevent goats from injuring each other. It is also easier for a goat to fit into the milking bale. It is a preferred procedure to dehorning as it is a less invasive procedure. Disbudding is normally undertaken using a cautery iron without the use of pain relief. Disbudding is currently carried out routinely by non-veterinarians (such as contract disbudders), and in some cases by owners (including farmers). It is less often performed by veterinarians. Goat disbudding can be more complicated than calf disbudding, because a goat's skull is much thinner and the horn bud is more extensive and requires destruction of a relatively larger area.[13] Varying types of pain relief are used.
Proposal consulted on (no. 25 in the 2019 discussion document)	A competent person may disbud or dehorn a goat. The goat must be given pain relief that is authorised by a veterinarian for the purpose of the procedure. The owner or person in charge of the animal has responsibility to ensure that only competent people perform this procedure. The definitions of disbudding and dehorning are likely to be the same as those currently in the Animal Welfare (Care and Procedures) Regulations 2018. Note – goat disbudding was combined with goat dehorning in proposal no. 25 in the discussion document
Submitters' views on proposal	The proposal for goat disbudding was consulted on in 2016, after which MPI decided to allow more time to consider further information on the efficacy of pain relief for the procedure. During the 2019 consultation, submissions were split. Some submitters thought technicians and farmers were generally more competent than veterinarians and others believed the procedure should be veterinarian only, or that pain relief should be required throughout the procedure. Industry organisations supported the proposal with some reservations about pain relief requirements as they thought some pain relief (such as local anaesthetic) caused kids more stress during disbudding than relief. Several advocacy organisations acknowledged that disbudding can be performed competently by non-veterinarians but thought the requirement for pain relief should specify it is needed throughout the procedure. Veterinary organisations were split in their support of the proposal: one considered a competent non-veterinarian could perform the procedure with pain relief, the other thought New Zealand should follow England's example (kids disbudded under general anaesthetic by a veterinarian). Individual veterinarians, veterinarian technicians and lifestyle block owners were also mixed in their support of/opposition to the proposal. NAWAC supported disbudding being done by a competent person with pain relief. Submitters were generally supportive of the proposal. A key issue which arose through consultation was the efficacy of pain relief during the disbudding procedure. Local anaesthetic can be difficult to administer in kids, there is no consensus on it effectiveness, and it can cause toxicity issues. Goat owners also claimed that sedation and general anaesthetics were risky for the kid, sometimes resulting in death.
Final proposal (post consultation)	1. A person who disbuds a goat must: a. be competent; and b. use pain relief authorised by a veterinarian for the purpose of the procedure. 2. The owner or person in charge of a goat must not allow it to be disbudded except in accordance with the clauses above.

[13] Molaei M. M., Mostafavi A., Kheirandish R., Azari O., and Shaddel M. Study of disbudding goat kids following injection of clove oil essence in horn bud region. (2015). *Veterinary Research Forum,* 6, 17-22.

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Proposed penalty	Category C (prosecutable regulatory offence which may result in a criminal conviction). A maximum $3,000 fine for an individual or maximum $15,000 fine for a body corporate may apply for failing to use pain relief authorised by a veterinarian for the purpose of the procedure.
Options analysis	
Option 1 - Default to vet only	From May 2020, goat disbudding may only be lawfully undertaken by a veterinarian.
Option 2 - Regulate the procedure	Regulate goat disbudding to specify who can do it, how it is done and when it can be done (as above) with delayed commencement of one year (May 2021).
Option assessment Table	

Option	Effective	Efficient	Clear	Equitable
1.	✓	x	x	—
2.	✓	✓✓	✓✓	✓✓

Analysis of options against criteria

Option 1 – Default to veterinarian-only

This option would not be effective as it would not provide a legal basis for competent non-veterinarians to continue to perform goat disbudding. Defaulting to a veterinarian-only procedure would be reasonably effective for animal welfare, as veterinarians are more likely to administer pain relief during and/or after the procedure.

There would be additional costs for goat farmers who have previously been able to carry out the procedure themselves or utilise the services of a specialist goat disbudders.

There may be a lack of clarity about whether the procedure is a significant surgical procedure and therefore whether non-veterinarians can continue to undertake goat disbudding.

Under this option, only Act offences and penalties would be available for the most serious animal welfare offending associated with goat disbudding (as is currently the case). Enforcement options for low-level offending would remain limited, and lack of compliance and risks to animal health and welfare may increase as a result.

Option 2 – Regulate the procedure (preferred)

Regulations will be effective in addressing legal ambiguity by providing a legal basis to allow a non-veterinarian to continue undertake goat disbudding.

Regulating to provide clear rules and standards on goat disbudding would contribute to good animal welfare outcomes according to the purpose of the Act, by requiring pain relief and competency.

Permitting competent people to undertake goat disbudding is also practical and cost effective, due to there being a potentially large number of animals involved.

Under this option, compliance with good practice will be encouraged by providing greater clarity about which acts and omissions would constitute a breach of the requirements and setting appropriate penalties for breaches.

Regulations can set penalties (infringement fees and fines) for breach of the pain relief requirements, which are proportional to the offence, in terms of harm and distress caused to the animal. Penalties can be set which are consistent with those for breach of other regulations, where comparable. Act offences and penalties will also be available for the most serious animal welfare offending.

Proactively Released

Rationale
Goat disbudding is likely to meet the criteria for a significant surgical procedure.[14] Without regulation, this procedure will be veterinarian only. A key issue which arose through consultation was the provision of effective pain relief during the disbudding and dehorning procedure. Pain relief during recovery is more straightforward. As a consequence pain relief is now to be required for the procedure under veterinary authorisation, but the drug, dosage and timing will be left to the discretion of the veterinarian who prescribes the drugs. This will allow for new pain relief alternatives to be adapted quickly as more becomes known about goats and their reactions to drugs.
Expected impact of proposed regulation
There should be an overall improvement in animal welfare for goats in the dairy industry due to the competency and pain relief requirements. The proposal will increase costs to farmers and owners due to the pain relief requirement, for those people not already using pain relief for disbudding. As well as the cost of the drug itself, there are likely to be time and costs associated with additional training, authorisation of the drugs, checking compliance with its use, and carrying out the procedure itself. The cost of the drug will be dependent on the type of drug the veterinarian determines is the most appropriate. For example, the cost of an analgesic on a small goat of 2 - 3 weeks old would be approximately $2.50 per animal. This cost is based on needing to administer 0.5ml per animal at the cost of approximately $5/ml ($495/100ml). The proposal could also impact veterinarians who will need to learn about the appropriate pain relief to be given, the timing of its effectiveness, and the implications of providing it to disbudders. These impacts will be mitigated by the proposed one year delay in the commencement of the regulation to enable farmers, practitioners and veterinarians to become familiar with and adjust to the new requirements.

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[14] Buttle H., Mowlem A., and Mew A. (1986). Disbudding and dehorning of goats. *In Practice*, 63-65.

11. Goats – restrictions on dehorning	
Background and issues	Dehorning is generally only carried out if a goat's horns become problematic when the animal is older, or if the earlier disbudding procedure was not successful. A farmer may choose to dehorn a goat to prevent it from injuring other goats with its horns, or from catching its horns in fences. The procedure is not as common as disbudding. The procedure is ideally performed with sedation, with either a flexible saw or preferably an obstetrical wire used to remove the horn at its base. Arteries that feed into the horn must also be sealed to prevent further bleeding and the hole into the sinus must be covered or plugged. The procedure can often result in scurs growing (partial horns) if not performed properly. Other dehorning procedures include cutting the horn and using bands to remove the horn over time. Pain relief during the procedure is problematic, but drugs give pain relief after the procedure. Horns are supplied by two separate nerves, which extend for unknown distances into the horn. Regulations about cattle dehorning came into effect in October 2019, requiring pain relief when disbudding or dehorning cattle.
Proposal consulted on (no. 25 in the 2019 discussion document)	A competent person may disbud or dehorn a goat. The goat must be given pain relief that is authorised by a veterinarian for the purpose of the procedure. The owner or person in charge of the animal has responsibility to ensure that only competent people perform this procedure. The definitions of disbudding and dehorning are likely to be the same as those currently in the Animal Welfare (Care and Procedures) Regulations 2018. Note – goat dehorning was combined with goat disbudding in proposal no. 25 in the discussion document
Submitters' views on proposal	Submissions were divided. Industry groups supported the proposal with reservations about pain relief because of the cost. For example the method used by some farmers to dehorn goats is elastrator bands used without any pain relief which takes up to eight weeks. These farmers thought pain relief should not be a requirement, as the cost to engage a veterinarian was more than the value of a goat. The views of advocacy groups and individuals were mixed: some preferred the procedure to be prohibited except for therapeutic purposes or veterinarian only, and others thought the pain relief requirement should be stronger and more specific. Veterinary technicians generally supported the proposal. The views of individuals and lifestyle block owners were mixed: some thought that veterinarians were less competent at the procedures that technicians or farmers, while others would only trust a veterinarian to do it. NAWAC submitted that the dehorning of goats should be veterinarian only because the nerve anatomy and the provision of pain relief in goats it more technically difficult than for cattle. This is the case in the United Kingdom.
Final proposal (post consultation)	1. A person who dehorns a goat must: c. be competent; and d. use pain relief authorised by a veterinarian for the purpose of the procedure. 2. The owner or person in charge of a goat must not allow it to be dehorned except in accordance with the clauses above. *'Dehorning' means to remove the horn or part of the horn (including any regrowth after disbudding) from a goat. It does not include removal of the hard sensitive tip of the horn resulting in a blunt hard end (tipping), or removal of an ingrown horn within 3 centimetre of the point where the horn touches or breaks the surface of the skin, or touches the eyelid or surface of the eye.*
Proposed penalty	Category D (prosecutable regulatory offence which may result in a criminal conviction). A maximum $5,000 fine for an individual or maximum $25,000 fine for a body corporate may apply for failing to use pain relief authorised by a veterinarian for the purpose of the procedure.

Proactively Released

Options analysis	
Option 1 - Default to vet only	From May 2020, goat dehorning may only be lawfully undertaken by a veterinarian.
Option 2 - Regulate the procedure	Regulate goat dehorning to specify who can do it, and for any requirements relating to pain relief (as above) with delayed commencement of one year (May 2021).
Option assessment Table	

Option	Effective	Efficient	Clear	Equitable
1.	✓	x	x	—
2.	✓	✓	✓✓	✓✓

Analysis of options against criteria

Option 1 – Default to veterinarian-only

This option would not be effective as it would not provide a legal basis for competent non-veterinarians to continue to perform goat dehorning. Defaulting to a veterinarian-only procedure may be effective for animal welfare, because of the technical skill, experience and judgement required, as goat dehorning is reasonably rare.

There would be additional costs for goat owners and farmers who have previously been carrying out the procedure themselves.

There may be a lack of clarity about whether the procedure is a significant surgical procedure and therefore whether non-veterinarians can continue to undertake goat dehorning.

Under this option, only offences and penalties under the Act would be available for the most serious animal welfare offending associated with goat dehorning (as is currently the case). Enforcement options for low-level offending would remain limited, and lack of compliance and risks to animal health and welfare may increase as a result.

Option 2 – Regulate the procedure (preferred)

Regulations will be effective in addressing legal ambiguity by providing a legal basis to allow a non-veterinarian to continue undertake goat dehorning.

Regulating to provide clear rules and standards on goat dehorning would contribute to good animal welfare outcomes according to the purpose of the Act, by requiring pain relief and competency.

Permitting competent people to undertake goat dehorning with pain relief will also be cost effective while ensuring the purposes of the Act is met, as goat farmers will only need to engage a veterinarian for the initial training and authorisation of the use of pain relief.

Under this option, compliance with good practice will be encouraged by providing greater clarity about which acts and omissions would constitute a breach of the requirements and setting appropriate penalties for breaches.

Regulations can set penalties (infringement fees and fines) for breach of the pain relief requirements, which are proportional to the offence, in terms of harm and distress caused to the animal. Penalties can be set which are consistent with those for breach of other regulations, where comparable. Offences and penalties under the Act will also be available for the most serious animal welfare offending.

Rationale
Dehorning is likely to meet the criteria for a significant surgical procedure, as horns are supplied by two separate nerves which extend for unknown distances into the horn. Without regulation the procedure will be veterinarian-only. Dehorning is performed less commonly than disbudding, meaning the same level of competency is not present in either veterinarians or non-veterinarians. By requiring pain relief the regulation maintains some veterinary oversight, while allowing non-veterinarians who are competent at the procedure to continue to carry it out.

Proactively Released

Requiring pain relief at the time of the procedure

Dehorning using bands (as some goat meat and fibre farmers do) is considered to be more humane by some because the procedure seems less traumatic than disbudding or surgical dehorning. However, it is likely to be painful for much of the procedure.[15,16] Meat and fibre farmers note traditional dehorning often costs more than the goat is worth and a problematic goat is more likely to be euthanised.[17]

As there is limited evidence of the likely pain experienced in goats during the banding procedure, MPI recommends allowing the procedure to continue to be performed. The proposal requires pain relief, but does not specify that it is needed at the exact time of the procedure (i.e. during application of the bands). Pain relief at the time of the procedure is unlikely to provide any relief for the goat as it is unlikely to feel pain until sometime after the application of the bands. Instead, some form of analgesic should be provided to alleviate pain once the bands begin to cut through the horn.

Tipping and ingrown horns

Tipping and removal of 'minor' ingrown horns have been excluded for the following reasons:

- Tipping is the removal of insensitive tissue primarily undertaken to blunt sharp horns and there is little reason or justification to remove more than is necessary to blunt the tip.
- 'Minor' ingrown horns are removed to provide some relief from the pain or distress caused by the ingrown horn where the horn touches or breaks the surface of the skin or eye of the animal. Where the ingrown horn is further ingrown and causes significant damage to the underlying tissue it would fall within the definition of dehorning and pain relief will be required.

The proposed penalty is higher than that for disbudding as dehorning is a more invasive procedure. It has a higher post-operative risk of complications due to the sinus of the horn potentially being opened, depending on where the horn is cut.

Expected impact of proposed regulation

There should be an overall improvement in animal welfare due to the competency and pain relief requirements. However, the regulation may result in more goats being euthanised, as goats are often not worth the cost of a veterinarian call out (if the goat owner does not already have pain relief authorised). MPI considers this to be a preferable alternative to causing a goat unnecessary pain and distress by dehorning it without pain relief.

Owner and person in charge impacts

There will be both increased time and costs to farmers and others involved in goat farming due to new requirements for pain relief. This is less than the cost of making the procedure veterinarian only. For example, one submitter noted that the cost of dehorning with bands was approximately $1.00, including the bands and a topically applied, over the counter pain relief cream, and four days' worth of aspirin. This would increase substantially if dehorning was required to be carried out by a veterinarian.

As well as the cost of the drug itself, there are likely to be time and costs associated with additional training, authorisation of the drugs, checking compliance with its use, and carrying out the procedure itself. The cost of the drug will be dependent on the type of drug the veterinarian determines is the most appropriate.

The proposal could also impact veterinarians who will need to learn about the appropriate pain relief to be given, the timing of its effectiveness, and the implications of providing it to people dehorning animals.

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[15] Smith, Mary C. Sherman, David M. (2009). Goat Medicine, Second Edition: Dehorning and Descenting. 723-731.

[16] Neely, CD. Thomson, DU. Kerr, CA. Reinhardt, CD. (2014). Effects of three dehorning techniques on behaviour and wound healing in feedlot cattle. Journal of Animal Science. 92, 2225-9.

[17] Anecdotally, a meat goat would usually be worth around $50.00 compared to a veterinarian consultation base rate costing around $120.00.

Proactively Released

12. Sheep - restrictions on disbudding

Background and issues	Disbudding is the destruction of free-floating immature horn tissue to prevent horns growing. Disbudding is generally undertaken in horned animals to reduce the significant risk that horns pose to the health and welfare of other animals and humans. It is a preferred procedure to dehorning as it requires a less invasive procedure. Disbudding is common in other production animals such as cattle and goats, but not in sheep as most breeds are hornless.
Proposal consulted on (no. 33 in the 2019 discussion document)	Sheep disbudding/dehorning may be performed by a competent person. Pain relief, authorised by a veterinarian for the purpose of the procedure, must be used throughout the procedure. Note – sheep disbudding was combined with dehorning in proposal no. 33 in the discussion document
Submitters' views on proposal	This proposal was originally consulted on 2016 and generally supported, although most submissions received related to cattle. In the 2019 consultation, industry groups and representatives supported a competent person carrying out both sheep disbudding and dehorning with pain relief. Advocacy groups supported the proposal but wanted pain relief to be required throughout the procedure and post–operatively. The veterinary community supported the proposal, noting it should be aligned with the cattle disbudding and dehorning regulations already in place (explicitly requiring local anaesthetic). NAWAC supported a competent person performing disbudding with pain relief.
Final proposal (post consultation)	1. A person who disbuds a sheep must: a. be competent; and b. use pain relief authorised by a veterinarian for the purpose of the procedure, throughout the procedure. 2. The owner or person in charge of the sheep must not allow it to be disbudded except in accordance with the clauses above.
Proposed penalty	Category C (prosecutable regulatory offence which may result in a criminal conviction). A maximum $3,000 fine for an individual or maximum $15,000 fine for a body corporate may apply for failing to use pain relief authorised by a veterinarian for the purpose of the procedure, throughout the procedure.
Options analysis	
Option 1 - Default to vet only	From May 2020, sheep disbudding may only be lawfully undertaken by a veterinarian.
Option 2 - Regulate the procedure	Regulate sheep disbudding to specify who can do it, and for any requirements relating to pain relief (as above) with delayed commencement of one year (May 2021).

Option assessment Table

Option	Effective	Efficient	Clear	Equitable
1.	✓	x	x	—
2.	✓	—	✓✓	✓✓

Analysis of options against criteria

Option 1 – Default to veterinarian-only

This option would not be effective as it would not provide a legal basis for competent non-veterinarians to continue to perform sheep disbudding. Defaulting to a veterinarian-only procedure would be reasonably effective for animal welfare, as veterinarians are more likely to administer pain relief during and/or after the procedure.

There would be additional costs for sheep farmers who have previously been carrying out the procedure themselves.

Under this option, only offences and penalties under the Act would be available for the most serious animal welfare offending associated with sheep disbudding (as is currently the case). Enforcement options for low-level offending would remain limited, and lack of compliance and risks to animal health and welfare may increase as a result.

Proactively Released

	Option 2 – Regulate the procedure (preferred) This option will be effective in addressing legal ambiguity by providing a legal basis to allow a non-veterinarian to continue undertake sheep disbudding. Regulating to provide clear rules and standards on sheep disbudding would contribute to good animal welfare outcomes according to the purpose of the Act, by requiring pain relief and competency. There will be no additional costs for sheep farmers who are currently trained to undertake the procedure and using authorised pain relief for the procedure, and some additional costs for farmers who are not trained or using authorised pain relief for the procedure. Under this option, compliance with good practice will be encouraged by providing greater clarity about which acts and omissions would constitute a breach of the requirements and setting appropriate penalties for breaches. Regulations can set penalties (infringement fees and fines) for breach of the pain relief requirements, which are proportional to the offence, in terms of harm and distress caused to the animal. Penalties can be set which are consistent with those for breach of other regulations, where comparable. Offences and penalties under the Act will also be available for the most serious animal welfare offending.
Rationale for preferred option	
Disbudding is likely to meet the criteria for a significant surgical procedure. If not regulated, then the procedure would be veterinarian only. It is not clear the procedure is commonly performed, meaning that there will not be a high level of competency in either veterinarians or non-veterinarians. The procedure is reasonably straightforward to learn and therefore should be appropriate for a competent non-veterinarian to undertake. By requiring pain relief, the regulation maintains some veterinary oversight, while allowing non-veterinarians to carry out the procedure. *Pain relief* During current consultation no issues with providing pain relief to sheep were raised. Issues with administering pain relief in goats are not fully resolved, and so that proposal allows for a veterinarian to authorise the use of pre- and post-operative pain relief instead of throughout the procedure. The same issues have not been proven with sheep, and so pain relief is required throughout the procedure. The type of pain relief required is up to the discretion of the authorising veterinarian.	
Expected impact of proposed regulation	
There should be an overall improvement in animal welfare by requiring pain relief. However, this procedure is not known to be routinely carried out, meaning there is likely to be little to no impact on the meat and fibre industry. The cost of pain relief may preclude some farmers from choosing to disbud their sheep. This would mean that the risk of animals injuring each other with horns would remain, however this risk is already adequately managed by farmers so the proposal is unlikely to result in negative animal welfare outcomes. The proposal will have little to no impact on the sheep dairy industry as most dairy breeds are polled.	

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13. Sheep - restrictions on dehorning

Background and issues	Dehorning is undertaken to reduce the risks of horns causing injuries to handlers and to other animals. It can also be performed as a treatment to relieve injured or ingrowing horns. In sheep, dehorning is likely to be performed more often than disbudding, usually as a response to injury or disease. The procedure is currently performed by non-veterinarians. It is not clear if pain relief is commonly used.
Proposal consulted on (no. 33 in the 2019 discussion document)	Sheep disbudding/dehorning may be performed by a competent person. Pain relief, authorised by a veterinarian for the purpose of the procedure, must be used throughout the procedure. Note – sheep dehorning was combined with disbudding in proposal no. 33 in the discussion document
Submitters' views on proposal	This proposal was originally consulted on 2016. The proposal was generally supported, although most submissions received related to cattle not sheep. The majority of submissions in 2019 supported the proposal. NAWAC disagreed with the proposal because sheep dehorning is rarely performed, which means the likelihood of non-veterinarians being competent at the procedure is lower than for those undertaking cattle dehorning. NAWAC therefore submitted that dehorning should be veterinarian only.
Final proposal (post consultation)	1. A person who dehorns a sheep must: a. be competent; and b. use pain relief authorised by a veterinarian for the purpose of the procedure, throughout the procedure. 2. The owner or person in charge of the sheep must not allow it to be dehorned except in accordance with the clauses above. *"Dehorning" means to remove the horn or part of the horn (including any regrowth after disbudding) from a sheep. It does not include removal of the hard sensitive tip of the horn resulting in a blunt hard end (tipping), OR removal of a minor ingrown horn.*
Proposed penalty	Category D (prosecutable regulatory offence which may result in a criminal conviction). A maximum $5,000 fine for an individual or maximum $25,000 fine for a body corporate may apply for failing to use pain relief authorised by a veterinarian for the purpose of the procedure throughout the procedure.
Options analysis	
Option 1 - Default to vet only	From May 2020, sheep dehorning may only be lawfully undertaken by a veterinarian.
Option 2 - Regulate the procedure	Regulate sheep dehorning to specify who can do it, and for pain relief requirements (as above) with delayed commencement of one year (May 2021).

Option assessment Table

Option	Effective	Efficient	Clear	Equitable
1.	✓	x	x	—
2.	✓	—	✓✓	✓✓

Analysis of options against criteria

Option 1 – Default to veterinarian-only

This option would not be effective as it would not provide a legal basis for competent non-veterinarians to continue to perform sheep dehorning. Defaulting to a veterinarian-only procedure may be effective for animal welfare, because of the technical skill, experience and judgement required, as sheep dehorning is reasonably rare.

There would be additional costs for sheep owners and farmers who have previously been carrying out the procedure themselves.

Under this option there would be a lack of clarity about who can carry out sheep dehorning and how it should be performed, which raises the risk that it is carried out incorrectly or not in accordance with good practice, with resulting pain and distress for animals.

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	Only offences and penalties under the Act would be available for the most serious animal welfare offending associated with sheep dehorning (as is currently the case). Enforcement options for low-level offending would remain limited, and lack of compliance and risks to animal health and welfare may increase as a result. Option 2 – Regulate the procedure (preferred) This option will be effective in addressing legal ambiguity by providing a legal basis to allow a non-veterinarian to perform sheep dehorning. Regulating to provide clear rules and standards on goat dehorning would contribute to good animal welfare outcomes according to the purpose of the Act, by requiring pain relief and competency. There will be no additional costs for sheep farmers who are currently trained to undertake the procedure and using authorised pain relief for the procedure, and some additional costs for farmers who are not trained or using authorised pain relief for the procedure. Under this option, compliance with good practice will be encouraged by providing greater clarity about which acts and omissions would constitute a breach of the requirements and setting appropriate penalties for breaches. Regulations can set penalties (infringement fees and fines) for breach of the pain relief requirements, which are proportional to the offence, in terms of harm and distress caused to the animal. Penalties can be set which are consistent with those for breach of other regulations, where comparable. Offences and penalties under the Act will also be available for the most serious animal welfare offending.

Rationale for preferred option

Dehorning is likely to meet the criteria for a significant surgical procedure. If not regulated then the procedure would be veterinarian only. By requiring pain relief for the procedure the regulation maintains some veterinary oversight, while allowing non-veterinarians who may be more competent at the procedure to carry it out.

Pain relief

During current consultation no issues with providing pain relief to sheep were raised. Issues with administering pain relief in goats are not fully resolved, and so that proposal allows for a veterinarian to authorise the use of pre- and post-operative pain relief instead of throughout the procedure. The same issues have not been proven with sheep, and so pain relief is required throughout the procedure. The type of pain relief required is up to the discretion of the authorising veterinarian.

Tipping and ingrown horns

Tipping and removal of 'minor' ingrown horns have been excluded for the following reasons:

- Tipping is the removal of insensitive tissue primarily undertaken to blunt sharp horns and there is little reason or justification to remove more than is necessary to blunt the tip.
- 'Minor' ingrown horns are removed to provide some relief from the pain or distress caused by the ingrown horn where the horn touches or breaks the surface of the skin or eye of the animal. Where the ingrown horn is further ingrown and causes significant damage to the underlying tissue it would fall within the definition of dehorning and pain relief will be required.

The proposed penalty is higher than that for disbudding as dehorning is a more invasive procedure. It has a higher post-operative risk of complications due to the sinus of the horn potentially being opened, depending on where the horn is cut.

Expected impact of proposed regulation

There should be an overall improvement in animal welfare due to the competency and pain relief requirements. It is unlikely that pain relief is currently administered on farms when the procedure is undertaken.

It may result in more sheep being euthanised. Anecdotally, unless the sheep is a valuable animal such as a stud ram, where pain relief or a veterinarian call out is needed, the sheep is more likely to be euthanised. MPI considers this to be a preferable alternative to causing a sheep unnecessary pain and distress by dehorning it without pain relief.

This procedure is not known to be routinely carried out, meaning there is likely to be little to no impact on the meat and fibre industry. The proposal will also have little to no impact on the sheep dairy industry as most dairy breeds are polled.

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14. Sheep – restrictions on tail docking	
Background and issues	Docking of lambs' tails is a widespread procedure that is routinely carried out on New Zealand farms by competent non-veterinarians without the use of pain relief. The procedure is undertaken to help prevent faecal soiling, dag formation, and the risk of flystrike (the feeding of blowfly maggots on the flesh). It makes dagging, crutching, and shearing easier and safer to perform, and can also make it easier to observe the ewe's udder to detect potential problems. Tails deter insects from the rear of the animal and provide an anchor for some muscles regulating the proper function of the rectum. There are opposing scientific views on whether docking the tail too short can increase the incidence of rectal or vaginal prolapse.[18,19]
Proposal consulted on (no. 32 in the 2019 discussion document)	A person who docks the tail of a sheep under 6 months of age must – a. use a hot iron or rubber ring; and b. ensure the tail is cut long enough to cover the vulva in females and equivalent length in males.* A person must not dock the tail of a sheep that is 6 months of age or over unless – a. the person is a veterinarian, or a veterinary student under the direct supervision of a veterinarian throughout the procedure; and b. the sheep is given pain relief at the time of the procedure. The owner of, and every person in charge of, a sheep must not allow a sheep's tail to be docked except in accordance with the clauses above. *Practically, docking where the caudal folds of a lamb's tail meets will be considered to have met this requirement.
Submitters' views on proposal	Feedback on the proposal from industry was mixed. There was general support for the proposal to allow docking up to six months of age by a competent person without pain relief. However, some industry submitters noted that a shorter tail decreased the likelihood of dags occurring and therefore lowered the subsequent risk of flystrike. Other industry submitters were supportive of the length and noted it would bring New Zealand in line with major trading partners. Animal advocates supported the maximum age for docking without pain relief being lowered to six weeks of age. As a compromise, the maximum age of 12 weeks was suggested. Advocacy groups also submitted that it was essential that both pre- and post-operative pain relief be required for every animal that is docked. The veterinary community recommended changing the maximum age of docking without pain relief to four months old. It also requested that competency of the person performing the procedure be required, and that at a minimum a non-steroidal anti-inflammatory drug should be required, given the painful nature of the procedure. NAWAC submitted in 2016 that it was inconsistent for animal welfare to require pain relief for some procedures such as calf disbudding, but not others such as lamb tail docking, and disagreed with the age limit being six months (recognising that this was the age limit taken from the Painful Husbandry Procedure code).
Final proposal (post consultation)	1. A person who docks the tail of sheep under six months of age must: a. be competent; and b. use a hot iron or rubber ring; and c. ensure the tail is docked long enough to cover the vulva in females and equivalent in males.* 2. A person who docks the tail of sheep that is six months of age or over must:

[18] Thomas D. L., Waldron D. F., Lowe G. D., Morrical D. G., Meyer H. H., High R. A., Berger Y. M., Clevenger D. D., Fogle G. E., Gottfredson R. G., Loerch S. C., McClure K. E., Willingham T. D., Zartman D. L., and Zelinksy R. D. (2003). Length of docked tail and the incidence of rectal prolapse in lambs. *Journal of American Science*, 81, 2725-2372.

[19] Jackson R., Hilson R. P. N., Roe A. R., Perkins N., Heuer C., and West D. M. (2014). Epidemiology of vaginal prolapse in mixed-age ewes in New Zealand. *New Zealand Veterinary Journal*, 62, 328-337.

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	a. be a veterinarian; and b. ensure the sheep is given pain relief at the time of the procedure. 3. The owner or person in charge of the sheep must not allow its tail to be docked except in accordance with the clauses above. *Note: A practical measurement for meeting this length may be docking no shorter than the distal end of the caudal fold.
Proposed penalty	Category B (infringement offence which does not result in a criminal conviction). A $500 fee or a maximum $1,500 fine if imposed by the Court may apply for tail docking (under six months of age) using a method other than the one prescribed, or tail docking (under six months of age) shorter than the vulva or equivalent in males. Where the offending involves a large number of animals, enforcement agencies may choose to file a charging document instead if issuing an infringement notice. For this proposal, the maximum fine the court can impose on a body corporate is $7,500. Category C (prosecutable regulatory offence which may result in a criminal conviction). A maximum $3,000 fine for an individual or maximum $15,000 fine for a body corporate may apply for tail docking a sheep over six months of age by a person other than a veterinarian or tail docking a sheep over six months of age and not using pain relief.
Options analysis	
Option 1 - Default to vet only	From May 2020, sheep tail docking may only be lawfully undertaken by a veterinarian.
Option 2 - Regulate the procedure	Regulate sheep tail docking to specify who can perform the procedure and for any requirements as to tail length and pain relief (as above) with delayed commencement of one year (May 2021).
Option assessment Table	

Option	Effective	Efficient	Clear	Equitable
1.	x	x x	x x	—
2.	✓	✓✓	✓✓	✓✓

Analysis of options against criteria

Option 1 – Default to veterinarian-only

If tail docking of lambs becomes a veterinarian-only procedure there would not be an effective legal basis for competent non-veterinarians to continue to perform the procedure.

Tail docking of lambs is routinely performed on most lambs by competent non-veterinarians without the use of pain relief. If this procedure was to be veterinarian only, there would not be sufficient veterinarians to perform the work and if there were, the additional costs to farmers would be significant.

There may be a lack of clarity about whether the procedure is a significant surgical procedure and therefore whether non-veterinarians can continue to tail dock lambs.

Under this option, offences and penalties under the Act would be available for the most serious animal welfare offending associated with sheep tail docking (as is currently the case). Enforcement options for low-level offending would remain limited, and lack of compliance and risks to animal health and welfare may increase as a result.

Option 2 – Regulate the procedure (preferred)

This option will be effective in addressing legal ambiguity by providing a legal basis to allow a non-veterinarian, usually a farmer or farm contractor, to dock lambs tails without the use of pain relief. It will be cost effective and practical, due to the high numbers of lambs which need to be docked in a restricted time period.

There may be increased time and costs for flock management associated with new sheep tail docking requirements related to tail length, for those farmers who are not already docking to the tail length in the proposed regulation.

Regulations can set penalties (infringement fees and fines) for breach of the requirements, which are proportionate to the offence and consistent with penalties for breach of other regulations, where comparable. Offences and penalties under the Act will also be available for the most serious animal welfare offending.

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Rationale for preferred option
Tail docking is likely to meet the criteria for a significant surgical procedure. Tails are richly supplied with nerves and blood vessels so their removal is significant for the animal. Without regulation this proposal would be veterinarian only, which will have major economic and practicality issues for New Zealand's sheep meat and fibre industries. The current minimum standards for tail docking in sheep are generally considered appropriate in terms of the animal welfare benefits from reducing problems with flystrike. The one change to the proposal since originally consulted on in 2016 is to be more specific about the minimum length of the tail. The proposal sets the length at where the caudal folds of the tail meet. In 2016, many submitters argued for a longer tail length as an alternative to the length of 'not flush' which was initially proposed. The tail length in the final proposal is long enough to cover the vulva or equivalent, which is already required by several assurance or verification programmes in the industry.[20] A practical measurement for meeting this length may be docking no shorter than the distal end of the caudal fold. Regulating for this length will also bring New Zealand's docking rules in line with, or above, other countries.[21] *Pain relief* Pain relief has not been required as there are practicality issues with administering pain relief in a timely manner. However, it is likely that as more research is done and more practical and accessible pain relief options become available, that it will be possible to require it for this procedure in the future.
Expected impact of proposed regulation
There should be an overall improvement in animal welfare by enforcing a longer tail length than some farmers currently dock to. It will also improve welfare for the small number of sheep that are docked after the age of six months, by making it a veterinarian-only procedure and requiring pain relief. The proposal is generally regulating to reflect current practice, apart from the required length for the tail to be docked. While most submissions agreed with the proposal to regulate for tail length, in 2016 there were some submitters who noted that they docked their tails longer. Some shearers and farmers will have to adjust to docking to longer length tails. Anecdotally, more time and care is needed when crutching and shearing sheep with longer tails, which will result in shearers taking longer to do each animal. This may lead to increased time and financial costs for both shearers and owners of animals. A delayed commencement for the minimum tail length of one year is proposed to allow farmers and contractors enough time to become familiar with the required tail length.

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[20] The New Zealand Assurance Programme (which has been implemented by major meat processors such as ANZCO Foods, Ovation, Silver Fern Farms, and Auckland Farmers Freezing Company) requires a docked tail to be of sufficient length to cover the vulva in female lambs and equivalent in male lambs.

NZ Merino's accreditation programme, requires a docked tail to be of sufficient length to cover the vulva or equivalent in males. The required age for docking is also between 24 hours and 10 weeks of age.

[21] For example, the United Kingdom requires that enough of the tail be retained to cover the vulva of a female animal of the anus of a male animal. The Australian Animal Welfare Standards and Guidelines for Sheep have standards that state the tail must be docked no shorter than one palpable free joint.

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Horses and other equids

15. Equids – restrictions on teeth extractions	
Background and issues	Equid teeth are routinely extracted by non-veterinarians (who are often referred to as equine dental technicians) and veterinarians to respond to disease or injury, or to relieve oral discomfort. In the 2016 consultation, MPI proposed that any power tool used on an animal for dental works must be designed for the purpose of dentistry. Power tools are used in some dentistry procedures, for example, grinding or floating teeth in horses. The majority of submitters thought there should be stronger requirements and higher penalties than those in the proposal, and a significant number of stakeholders called for a wider range of dental procedures to be regulated including teeth extraction, floating teeth and cutting teeth.
Proposal consulted on (no. 23 in the 2019 discussion document)	*Option 1* A competent person may extract a loose deciduous incisor or cheek tooth from an equid. All other equid tooth extractions are veterinarian only. Pain relief must be used at the time of the procedure. The owner or person in charge of the animal has responsibility to ensure that only competent people perform this procedure. *Option 2* A competent person may extract a finger-loose deciduous incisor or cheek tooth in an equid that has obvious visual recession of the gingiva and is protruding above the occlusal surface, but may not use tools or other equipment. All other extractions are veterinarian only. Pain relief must be used at the time of the procedure. The owner or person in charge of the animal has responsibility to ensure that only competent people perform this procedure. *'Cheek tooth': the molars and premolar teeth.* *'Deciduous tooth': a baby or milk tooth.* *'Equid': any member of the equidae family, including any horse, pony, donkey, mule, other wild ass, zebra, and any of their hybrids.* *'Gingiva': gums.* *'Incisor': tooth at the front of the mouth adapted for cutting.* *'Occlusal surface': surface of the tooth that is used for chewing or grinding.* *'Therapeutic purposes': to respond to an existing disease or injury.* *'Wolf tooth'*: an upper or lower first pre-molar.
Submitters' views on proposal	A large number of submissions were received (1067), of which a substantial majority were from horse owners. One industry group considered if only veterinarians could extract teeth (other than baby teeth) this would deter owners from having teeth checked and it would limit the number of people available to perform procedures. This group therefore supported a competent person being able to extract all teeth with pain relief authorised by a veterinarian. Another group argued the removal of wolf teeth should be veterinarian only and that wolf teeth should be able to be removed for therapeutic and behavioural purposes (as they affect steering). The SPCA supported equine dental technicians being able to remove deciduous (baby) teeth that are finger loose without the use of tools (option 2) but did not support the removal of wolf teeth for behavioural reasons. The SPCA also considered that wolf teeth should be removed only by veterinarians under sedation with a nerve block, and that analgesia and antibiotics should be provided. However, they advocated that finger loose wolf teeth should be able to be removed with fingers. The SPCA also thought the extraction of all other teeth, except finger loose baby teeth and wolf teeth, should be veterinarian only.

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	The New Zealand Veterinary Association and the Veterinary Council of New Zealand supported equine dental technicians removing deciduous (baby) teeth that are finger loose without the use of tools (option 2) and strongly objected to equine dental technicians removing wolf teeth (even with pain relief). They thought all other extractions should be undertaken by veterinarians in accordance with their judgement and within the Veterinarian Council New Zealand Code of Professional Conduct. Veterinarians in general had mixed views. Some agreed with the New Zealand Veterinary Association. Some advocacy groups noted that only veterinarians should be able to use tools to remove baby teeth, because the premature removal of deciduous teeth can expose the dental sac covering the permanent tooth which can lead to the destruction of the permanent tooth.[22] Other stakeholders, including a small number of veterinarians, considered it would be impractical for retained finger loose deciduous teeth to be removed without tools, and a prohibition on the use of tools by equine dental technicians would make these extractions veterinarian-only procedures. It was also considered that removing these teeth only using fingers would present a health risk to equine dental technicians as these teeth can be sharp. It was strongly felt that a prohibition on tool use by equine dental technicians would result in negative welfare outcomes as horse owners would not pay for a veterinarian to extract these teeth. A substantial majority of horse owners supported option 1 or neither option because they thought equine dental technicians should be able to remove all types of teeth. In one survey submitted to MPI of 615 horse owners, 84 percent of horse owners said they use equine dental technicians to service their horse dentistry needs and only 11 percent said they used veterinarians. In the same survey, 90 percent of horse owners thought equine dental technicians should be able to continue to remove wolf teeth with pain relief. There were a range of views expressed, including: equine dental technicians are better qualified and more experienced than veterinarians (i.e. veterinarians are equivalent to a general practitioner, equine dental technicians are more equivalent to a dentist and are more qualified to treat teeth); wolf teeth should be removed for therapeutic and behavioural issues; if equine dental technicians aren't able to perform teeth extractions costs will increase significantly for horse owners with no animal welfare benefit; it would be impractical to engage a veterinarian; equine dental technicians should be regulated so that it is clear what qualifications and standards individual equine dental technicians hold and what insurance they have if complications arise; equine dental technicians should be able to decide whether sedation and pain relief is required and should be able to administer it themselves. The Donkey & Mule Society supported the removal of baby teeth by non-veterinarians with tools and equipment. Wolf teeth should be removed before they become an issue. NAWAC and NAEAC submitted that the role of veterinary paraprofessionals and competency need to be considered further and paraprofessionals should be encouraged to develop their own self-regulatory framework. Pain relief should be required for wolf teeth but not baby teeth. They supported the extraction of wolf teeth by a competent person with pain relief provided to the horse and agreed a competent person may extract loose baby teeth and allowed to use tools if required. Teeth should only be extracted for therapeutic purposes.
Final proposal (post consultation)	1. A veterinarian or a competent person may extract a: a. finger loose deciduous tooth from an equid; and/or b. wolf tooth from an equid. 2. Pain relief, authorised by a veterinarian, must be given to the horse at the time of the procedure to remove a wolf tooth. 3. The extraction of all other equid teeth (i.e. excluding finger loose deciduous and wolf teeth) may only be performed by a veterinarian and pain relief must be given to the equid at the time of the procedure. 4. The owner or person in charge of the animal must not allow equid teeth extractions to be performed except in accordance with the clauses above.

[22] Dixon P.M; Dacre, I. (2005). A review of equine dental disorders. *The Veterinary Journal* 169, p 175

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	'Equid' means any member of the equidae family including any horse, pony, donkey, mule, other wild ass, zebra and any of their hybrids. *'Deciduous teeth' are baby or milk teeth, often referred to as caps.* *'Wolf teeth' are an upper or lower pre-molar tooth.*
Proposed penalty	Category C (prosecutable regulatory offence which may result in a criminal conviction). A maximum $3,000 fine for an individual or maximum $15,000 fine for a body corporate may apply for removing a wolf tooth without pain relief. Category C (prosecutable regulatory offence which may result in a criminal conviction). A maximum $3,000 fine for an individual or maximum $15,000 fine for a body corporate may apply if a non-veterinarian removes permanent teeth, or if a veterinarian removes permanent teeth without pain relief.
Options analysis	
Option 1 - Default to vet only	From May 2020, equid tooth extraction may only be lawfully undertaken by a veterinarian.
Option 2 - Regulate the procedure	Regulate to specify who can extract types of equid teeth (veterinarians and/or non-veterinarians) and for pain relief requirements (as above).
Option assessment Table	

Option	Effective	Efficient	Clear	Equitable
1.	✓	x	x	—
2.	✓✓	✓	✓✓	✓✓

Analysis of options against criteria

Option 1 – Default to veterinarian-only

If all equid tooth extractions became veterinarian only there would not be an effective legal basis for competent non-veterinarians to continue to perform this procedure. Depending on which teeth were being extracted, animal welfare may be equally served by either a competent equine dental technician performing the procedure, or a competent veterinarian. If veterinary treatment became mandatory for all equid teeth extractions, the result might be that horse owners choose to get their horses checked and treated less often (because of the cost increase), to the detriment of their horses' welfare.

There may be additional costs for some horse owners (particularly those with high numbers of horses), who have previously engaged a specialist equine dental technician who does not use pain relief for extractions, because they would have to engage a veterinarian.

There may also be practicality issues, if there was a scarcity of veterinarians with specialist expertise for equine dentistry in an area.

If only veterinarians are able to perform all equid teeth extractions, it would not make the best use of the knowledge and skills of trained and experienced equine dental technicians, which would be inefficient, with no advantage to equid welfare outcomes.

This option could result in confusion about whether equid teeth extractions are significant surgical procedures and whether they can only be carried out by veterinarians. Any animal welfare offending associated with performing teeth extractions would only be able to be prosecuted under the Act, which may be disproportionate to the nature of the offending. Enforcement options for low-level offending would remain limited and lack of compliance and risks to animal welfare may be increased as a result.

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	Option 2 – Regulate the procedure (preferred) Regulations will be effective in addressing legal ambiguity by providing a legal basis to allow non-veterinarians to perform some equid teeth extractions. Regulating to clarify who is appropriate to perform equid teeth extractions and to provide detail on how they should be performed by setting clear standards will contribute to good animal welfare outcomes, for example requirements for pain relief and/or veterinarian oversight. The option should be cheaper or cost-neutral for horse owners for the extraction of loose deciduous teeth and wolf teeth, as compared with these extractions defaulting to veterinarian-only procedures. This is because horse owners will be able to engage or continue to engage competent non-veterinarians, such as equine dental technicians, for these horse teeth extractions. Pain relief will have to be used for wolf teeth extractions regardless of who carries out the procedure. Horse owners will be able to make a choice as to who they engage to carry out wolf teeth extractions, based on cost, expertise and availability of skilled equine dental technicians in their area (and as long as that person can access pain relief). Regulating to make the extraction of permanent horse teeth (other than wolf teeth) a veterinarian-only procedure is cost-neutral against not regulating (i.e. the procedure will default to being a veterinarian-only if no regulations are made). Regulating to allow a competent person to perform some equid teeth extractions (e.g. baby teeth) could make best use of the knowledge and skills of specialist equine dental technicians while ensuring good animal welfare outcomes. Regulating will provide greater clarity about who should undertake a procedure (a veterinarian and/or competent non-veterinarian), what is required (e.g. pain relief), and what acts and omissions would constitute a breach of the requirements, this will help people comply with their obligations under the Act and contribute to good animal welfare outcomes. Regulatory penalties may be set which give MPI a mechanism to address low- and medium-level offences relating to breaches, which would drive behavioural change and contribute to good animal welfare outcomes. They can be set in such a way that they are clear and enforceable, and consistent with penalties for breach of other regulations, where comparable.

Rationale for preferred option

Deciduous (baby, milk, cap) teeth

Deciduous horse teeth are normally shed between the ages of two and four-and-a-half years old. Loose or partially retained deciduous teeth can cause discomfort and the horse may display headshaking, quidding (spitting out food), and loss of appetite.[23] It is generally considered good practice to remove these teeth if the horse is displaying these indicators, using specialised extractors or a long slim-bladed instrument.

Should pain relief be mandated for deciduous teeth extractions?

A substantial majority of stakeholders agreed that the extraction of finger loose deciduous teeth would not be significantly painful and therefore pain relief is not mandated in the proposal.

Who should be able to extract deciduous teeth and under what conditions?

It is unclear whether the extraction of finger-loose deciduous teeth would meet the criteria of a significant surgical procedure and therefore regulations are necessary to clarify who can extract these teeth and under what circumstances.

No robust data is available to substantiate whether there is a significant issue in New Zealand with the premature removal of deciduous teeth that warrants prohibiting the use of tools for these extractions. While the premature removal of these teeth may result in welfare issues, it is considered that regulating as proposed, to allow the extraction of only finger loose deciduous teeth, will prohibit the routine removal of deciduous teeth at a set age before they are sufficiently loose, which anecdotally may have been an issue.

Wolf teeth

The extraction of wolf teeth is controversial and stakeholders hold strong views on: whether pain relief should be provided to the equid; whether there is a need to extract wolf teeth routinely; and who should be able to perform wolf teeth extractions.

Proactively Released

[23] Ibid. p 175

Pain relief

Determining pain experiences in prey species, such as horses and donkeys that have evolved to minimise or mask signs of pain to reduce a predator's advantage is difficult.[24] However, teeth have blood supply, nerves, roots and pulp, and it is generally accepted that extraction of non-deciduous teeth without pain relief may cause pain and distress. It is therefore proposed that pain relief be mandated for these extractions.

Should wolf teeth be able to be routinely extracted?

Wolf teeth are routinely extracted for the comfort of the horse when being ridden due to the placement of the bit in the mouth. Scientific evidence to support routine extraction is lacking. A substantial majority of submissions supported the extraction of wolf teeth to ensure the comfort of the horse. A restriction on when wolf teeth can be removed is therefore not proposed at this time.

Who should be able to extract wolf teeth?

Wolf teeth can be small, large, single rooted, multi-rooted, cusped or of molariform (like a molar) appearance.[25] All or part of the tooth crown can be hidden beneath soft tissue. However, they usually have a single fairly shallow root and are, in general, easy to extract.[26]

Due to the pain caused by this procedure, and the potential harm that could be caused if the procedure is not carried out correctly, it is highly likely that it would meet the criteria of a significant surgical procedure that come into effect in May 2020. Without regulations specifying otherwise, only a veterinarian would be able to extract wolf teeth.

Currently both veterinarians and equine dental technicians extract wolf teeth. A substantial majority of non-veterinarian stakeholders submitted that equine dental technicians should be able to continue to extract wolf teeth. In particular, the majority of horse owners submitted that they considered equine dental technicians skills were superior to veterinarians.

Conversely, the veterinary community is strongly opposed to non-veterinarians extracting wolf teeth.[27] This is due to the level of veterinary judgement they consider is necessary to complete the procedure and the potential risks to the horse associated with complications, such as the rupture of the palatine artery, which could result in significant blood loss in a short period of time. The concerns are also based on their views about the varying levels of competency in the equine dental technician community.

The proposed regulation, which allows a competent non-veterinarian (equine dental technician) to extract wolf teeth with pain relief authorised by a veterinarian, ensures good animal welfare outcomes and takes into account the following:

- While the qualifications and experience of equine dental technicians operating in New Zealand varies and there is no recognised standard or regulatory body to oversee the performance of equine dental technicians, some equine dental technicians are likely to be sufficiently competent to extract wolf teeth.
- Regulating to allow a competent non-veterinarian to perform extractions envisages that in future there may be a possibility of establishing recognised standards and a regulatory regime for equine dental technicians.
- A significant number of submissions received petitioned for a continuation of the current practice where individual veterinarians and equine dental technicians work together. In these situations, the veterinarian provides the horse pain relief and the equine dental technician performs the procedure.
- As the proposal mandates the provision of pain relief, authorised by a veterinarian, individual veterinarians will be able to continue to work with equine dental technicians they consider competent. It is acknowledged that it may be difficult for some equine dental technicians to access the pain relief necessary and they will have to establish good working relationships with veterinarians on a case-by-case basis to do so.

[24] F Ashley; A.E Waterman-Pearson; and H.R. Whay (2005). Equine Veterinary Journal. Behavioural assessment of pain in horses and donkeys; application to clinical practice and future studies. Department of Clinical Veterinary Science, University of Bristol.

[25] S. L. Hole (2016) Wolf teeth and their extraction. Equine Veterinary Education.

[26] Thomas J. Johnson (2010). Evaluation and extraction of wolf teeth. Proceedings of the 49th British Equine Veterinary Association Congress 2010 – Birmingham, United Kingdom.

[27] New Zealand Veterinary Association Position Statement 10i- Supervision of Equine Dental Technicians. https://www.nzva.org.nz/page/policyequinedentistry.

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- The veterinary community has indicated that there are sufficient equine veterinarians available throughout New Zealand to be able to undertake all equid tooth extractions. In particular, they submitted that wolf teeth removal is a once in a horse's life time procedure so making these extractions veterinarian only would be unlikely to impact the equine dental technician community.
- At this time, it is not possible to confirm whether the number of equine veterinarians in New Zealand would be sufficient to undertake all extractions (deciduous, wolf teeth and permanent teeth) as the number of horses in New Zealand is not known.[28] Capacity may be compromised if all extractions were veterinarian only and horse welfare could be compromised if there are insufficient practitioners to perform extractions.
- Further, other stakeholders disagreed with the veterinary community's assessment of the impact of this proposal on equine dental technicians. They submitted that a horse's first consultation is a general check-up at which point the timing for wolf teeth extraction is discussed. It was submitted if an equine dental technician could not extract wolf teeth horse owners would employ a veterinarian and therefore build a relationship with the veterinarian, rather than the equine dental technician.
- While concerns raised by the veterinary community about complications associated with these extractions may be justified, such as injury to the palatine artery, there is no robust data to suggest that this is an issue requiring regulation at this time.
- Removal of wolf teeth is generally to provide comfort to the horse when it is being ridden. It is usually performed on a healthy tooth and a healthy horse and therefore it is considered lower risk than the extraction of other permanent teeth that are removed to respond to disease or injury.

Permanent teeth (all teeth other than finger loose deciduous and wolf teeth)

The extraction of permanent teeth is controversial. Stakeholders' views, as with submissions on the extraction of wolf teeth, differed significantly especially in relation to who should be able to perform these extractions.

Pain relief

As with wolf teeth, the removal of permanent teeth is considered painful and therefore it is proposed that pain relief be mandated.

Are regulations necessary?

Due to the pain caused by these extractions and the potential harm that could be caused if the procedure is not carried out correctly, it is highly likely that it would meet the criteria of a significant surgical procedure that come into effect in May 2020. Without regulations specifying otherwise, only a veterinarian would be able to extract permanent teeth. Regulations can be made to clarify that a procedure may only be performed by a veterinarian.

Who should be able to extract permanent teeth and why?

Currently, veterinarians and non-veterinarians extract permanent teeth; it is proposed that regulations clarify that permanent teeth extractions (excluding wolf teeth) may only be performed by a veterinarian.

The veterinary community and advocacy groups strongly supported this approach. Other stakeholders considered equine dental technicians to be superior to veterinarians and therefore that equine dental technicians should be able to perform all dental procedures.

On balance, MPI considers it appropriate the extraction of permanent teeth (excluding wolf teeth) is restricted on the following basis:

- Permanent teeth extractions are complex; other than the extraction of wolf teeth, they are generally undertaken to respond to injury or disease. The horse requiring the extraction of a permanent tooth may not be healthy and the tooth may also be diseased. Veterinary judgment is required and restricted veterinary medicines, in addition to pain relief, may need to be administered.
- While the number of horses in New Zealand is unknown it is assumed that there will be access to sufficient veterinarians to undertake these extractions.[29]

[28] Anecdotal information estimates that there are around 120,000 horses in New Zealand. In 2018, Statistics NZ recorded that were 43,684 horses on farms and a 2012 study estimated that there were around 80,000 sport horses (Economic Impact Report on the New Zealand Sport Horse Industry. Alex Matheson & Michele E.M. Akoorie. July 2012 refers). No robust data is available on the number of horses owned as pets.

[29] The New Zealand Veterinary Association has provided a list of 110 veterinarians performing equine dental procedures throughout New Zealand.

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Expected impact of proposed regulation
The costs associated with some extractions will increase *Wolf teeth* Wolf teeth extractions are currently performed with and without pain relief by veterinarians and non-veterinarians. Under the proposal pain relief will be required and therefore the services of a veterinarian will be needed to access pain relief. Cost will therefore increase for some horse owners that currently engage only an equine dental technician and for those who currently do not provide pain relief for their horses. It is difficult to estimate how much the costs will increase as veterinary businesses have discretion on charging. Horse owners have submitted that costs could double or triple due to the veterinarian services required. Costs would include call out fee, travel, medication and consultation fees. However, veterinarians submitted that costs for some horse owners may decrease as owners may only engage a veterinarian, rather than a veterinarian and an equine dental technician. Given that most wolf teeth extractions are undertaken once in a horse's life time MPI does not consider the potential increased costs will be prohibitive and are reasonable in terms of ensuring horse welfare. *Permanent teeth (all teeth other than finger loose deciduous and wolf teeth)* Both veterinarians and equine dental technicians remove permanent teeth. The proposal to make these extractions veterinarian only will increase costs for those people who do not currently engage a veterinarian. Submissions estimated that the costs would generally double or triple due to veterinary charges. Given that permanent teeth extractions are only undertaken to respond to disease or injury MPI does not consider these costs will be onerous and are reasonable in terms of ensuring animal welfare. *Effect on equine dental technician businesses* It is anticipated that this proposal will affect the businesses of equine dental technicians that are not able to access pain relief from a veterinarian to extract wolf teeth. One equine dental technician indicated that the removal of wolf teeth represents about a third of their business. As a result the proposal may threaten the viability of their business. In terms of permanent teeth it is unclear how many equine dental technicians extract permanent teeth and how many permanent teeth need to be removed per annum. It is anticipated that this aspect of the proposal will only have a minor impact on equine dental technicians businesses as permanent teeth are generally extracted only in cases of disease and injury, and therefore should be less frequent extractions. *Animal welfare and potential unintended consequences* The majority of veterinarians and advocacy groups that submitted felt the proposal would improve horse welfare as 'cowboys' would no longer be able to extract teeth. Other stakeholders submitted that due to the increased costs associated with veterinary services horses would either be treated less frequently or not at all. This would mean horses would suffer. A number of submitters, in all sectors, felt that the proposal would drive illegal activity with non-veterinarians removing teeth in "backyards" without pain relief.

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16. Horses – restrictions on performing a Caslick's procedure	
Background and issues	A Caslick's procedure is undertaken to address defective vulvar conformation in mares. Poor vulva conformation can be an acquired condition as a result of repeated foaling or it may be congenital.[30] The procedure involves surgically closing the upper part of a mare's vulva to improve the mare's reproductive capacity, facilitate foaling, and decrease faecal contamination. Creating or repairing a Caslick's seam can cause significant pain or distress for mares.[31] Pain relief for both creating and opening a seam is necessary. Repeated procedures can cause considerable scaring. In extreme cases, too many procedures can result in ineffective closure of the vulva. Currently, non-veterinarians open Caslick's sutures, with or without pain relief.
Proposal consulted on (no. 24 in the 2019 discussion document)	Creating or repairing a Caslick's seam on a horse is a veterinary-only procedure. Pain relief must be used at the time of the procedure. A competent person may open an existing seam when the mare is being served or is foaling if: • the horse is given pain relief, authorised by a veterinarian for the purpose of the procedure, and a throughout the procedure; and • no tissue is removed from the mare. The owner or person in charge of the animal has responsibility to ensure that only competent people perform this procedure. For this regulation, 'horse' is restricted to horses, and does not include ponies, asses, zebras or other equids.
Submitters' views on proposal	In 2016 MPI proposed that creating, opening and repairing a Caslick's suture would be a veterinarian-only procedure, and that pain relief must be used at the time of the procedure. This was generally supported, but as a result of consultation the original proposal was amended to allow competent non-veterinarians limited scope to open a Caslick's suture in specified circumstances. In the 2019 consultation, a majority of submitters agreed with the proposal, although some thought all aspects of the procedure should be performed by a veterinarian (i.e. creating, opening and repairing). Advocacy groups thought all aspects of the procedure should only be performed for therapeutic reasons, by a veterinarian with pain relief, because damage to vulva tissue could occur if a non-veterinarian undertook the procedure. Veterinary organisations supported the proposal. Most veterinarians also supported the proposal; creating a Caslick's seam is painful and tissue often needs to be cut. Many also considered opening a Caslick's seam (to facilitate artificial insemination and/or foaling) should only be undertaken by veterinarians as well. NAWAC generally supported the proposal.
Final proposal (post consultation)	*Creating or repairing a Caslick's on a horse* 1. Creating or repairing a Caslick's seam on a horse may only be undertaken by a veterinarian. 2. Pain relief must be used at the time of the procedure. *Opening the existing seam of a Caslick's in a horse* 3. A person who opens an existing seam in a Caslick's in a horse must: a. be competent; b. only do so when the mare is being serviced, or is foaling; c. ensure no tissue is removed from the horse; and

[30] Papa FO and CM Melo, (2014), Equine Perineal and Vulvar Conformation Correction Using a Modification of Pouret's Technique, *Journal of Equine Veterinary Science*, 34:359-364.

[31] ibid

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d. use pain relief authorised by a veterinarian for the purpose of the procedure, throughout the procedure.

4. The owner or person in charge of the horse must not allow a Caslick's seam to be made, repaired, or opened, except in accordance with the clauses above.

For clarity, in this regulation, 'horse' does not include ponies, donkeys, zebras or other equids.

Proposed penalty

Category C (prosecutable regulatory offence which may result in a criminal conviction). A maximum $3,000 fine for an individual or maximum $15,000 fine for a body corporate may apply if: a non-veterinarian creates or repairs a Caslick's seam; a veterinarian fails to use pain relief when creating or repairing a Caslick's seam; or a non-veterinarian opens an existing seam and removes tissue or fails to use pain relief.

Options analysis

Option 1 - Default to vet only

From May 2020, creating or repairing a Caslick's seam, or opening an existing seam, may only be lawfully undertaken by a veterinarian.

Option 2 - Regulate the procedure

Regulate to specify who can undertake a Caslick's procedure, who can open or repair an existing seam, and to mandate pain relief as appropriate (as above).

Option assessment

Table

Option	Effective	Efficient	Clear	Equitable
1.	✓	x	x	—
2.	✓	✓	✓✓	✓✓

Analysis of options against criteria

Option 1 – Default to veterinarian-only

This option would not be effective in providing a legal basis for competent non-veterinarians to open a Caslick's in limited circumstances. However, it would be effective in terms of good animal welfare outcomes by a veterinarian creating and repairing a Caslick's seam, because of the technical skill, experience and judgement required for these aspects of the procedure. There would be additional costs if all aspects of the procedure were to become veterinary-only as non-veterinarians currently open Caslick's seams in limited circumstances. There may also be practicality issues with ensuring animals are treated in a timely manner, if a veterinarian is not available to attend promptly, for example, when a mare begins foaling and a veterinarian cannot attend in time to open the Caslick's seam. There may be a lack of clarity about whether the procedure is a significant surgical procedure and therefore whether a non-veterinarian can continue to open a Caslick's seam. Any animal welfare offending associated with performing that procedure would only be able to be prosecuted under the Act, which may be disproportionate to the nature of the offending (same as it is currently).

Option 2 – Regulate the procedure (preferred)

Regulations will be effective in addressing legal ambiguity by providing a legal basis to allow a competent non-veterinarian to open a Caslick's seam in limited circumstances. It will also be reasonably effective in terms of good animal welfare outcomes, by allowing the timely treatment by a non-veterinarian to relieve the foaling pain and distress of a mare, however this would depend on the competency of that person. It is also reasonably cost effective and practical, and if the procedure is performed correctly, will ensure the purposes of the Act are met.

Regulating will provide greater clarity about who can undertake different aspects of the procedure. Regulatory penalties may be set which are consistent with penalties for breach of other regulations, where comparable. They can be set in such a way that they are clear and enforceable.

Rationale for preferred option

Creating or repairing a Caslick's seam is likely to meet the criteria of a significant surgical procedure and therefore regulations are necessary to clarify who can perform the procedure and under what circumstances.

Closing and creating a Caslick's seam

The proposal limits creating or repairing a Caslick's seam to veterinarians, due to the skills and experience required for the procedure.

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Allowing a non-veterinarian to open a Caslick's seam It is considered appropriate for a non-veterinarian to open a Caslick's because this is a straightforward part of a Caslick's procedure which can adequately be performed by a non-veterinarian. There are two circumstances where a non-veterinarian would need to open a Caslick's when the mare is about to foal and to allow the mare to be serviced.[32] Pain relief is required for the procedure[33] which means some veterinary oversight is required.
Expected impact of proposed regulation
There should be a minor overall improvement in animal welfare due to the competency and pain relief requirements. The proposal generally reflects current practice and therefore is likely to have minimal impact on horse owners. It will have a minor cost impact for horse owner/handlers not currently using pain relief for opening a Caslick's suture.

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[32] Servicing means mated or inseminated.

[33] Pycock JF, (2003), Vulval conformation, common vulval injuries and the Caslick's procedure, date pf access 5 September 2019.

Poultry and game fowl

17. Chickens and turkeys – restrictions on beak tipping	
Background and issues	Beak tipping is performed to reduce injuries sustained from pecking and prevent outbreaks of cannibalism. A small portion of the beak is sliced off or weakened to later fall off to remove the sharp-point. Either a hot blade is used to manually cut and cauterise the wound or an infrared beak tipping machine is used to deliver a burst of energy to the beak tip which erodes over approximately two weeks. With infrared beak trimming machines, a setting on a machine maintains consistency whereas using a hot blade is subject to more variability and a higher risk of mistakes. The Layer Hens Code of Welfare states that hens must only have their beaks trimmed by an infrared beam beak treatment machine, but the code does not apply to breeder birds (chickens that are used to breed stock). Beak tipping is routinely performed on layer hens, breeder birds for layer hens, breeder birds for meat chickens, and breeder birds for turkeys. Due to the high number beaks tipped, especially in larger operations, it would be impractical to require veterinarians to perform the procedure.
Proposal consulted on in online survey (no. 15 in the 2019 discussion document)	Beak tipping of poultry must be performed: • by a competent person; • within three days of hatching; and • by removing no more than one quarter of the upper or lower beak. This means for one to three day old chicks, no more than 2 mm of the beak may be removed. For adult hens, no more than the blunting of upper and lower tips is permissible.* The owner or person in charge of the animal has responsibility to ensure that only competent people perform this procedure according to the specifications in this proposal. * Note that under Minimum Standard No. 16(c) of the Code of Welfare for Layer Hens, the tipping of beaks of individual hens after three days of age must only be undertaken in an emergency with veterinary approval and under veterinary supervision to help control outbreaks of cannibalism during the laying period.
Submitters' views on proposal	Submitters were universally supportive of beak tipping to prevent injurious feather pecking and reduce the likelihood of outbreaks of cannibalism. Some submitters thought pain relief should be used. The Poultry Industry Association of New Zealand (PIANZ) and an industry veterinarian raised concerns that some breeder birds of layer chickens are not large enough at three days of age to tip with a hot blade. Not all hatcheries or farms are able to afford an infrared beam machines and must use a hot blade. PIANZ advised that tipping too young can result in complications that then require re-tipping or permanently deform the bird.
Final proposal (post consultation)	*All chickens (Gallus gallus domesticus) or turkeys* 1. A competent person may only tip the beak of a chicken or turkey aged three days and under except: a. when using a hot blade on a breeder layer chicken, breeder meat chicken or breeder turkey when the beak may be tipped on birds aged six days and under; or b. in response to an outbreak of cannibalism in an emergency during the laying period when beaks of chickens and turkeys over three days of age can be tipped in accordance with veterinary approval. *All chickens and turkeys must have no more than one quarter of a beak removed* 2. When beak tipping, a competent person must remove no more than one quarter of the upper or lower beak of a chicken or a turkey. *Layer chickens must be tipped by infrared beam* 3. The beak of a layer chicken must only be tipped using an infrared beam except in response to an outbreak of cannibalism.

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The owner or person in charge of the animal is liable

4. The owner or person in charge of a chicken or a turkey must not let its beak be tipped except in accordance with the clauses above.

*'**Beak tipping**' (also known as beak trimming) is the removal of the upper and lower tips of the beak (max 25%).*

*'**Breeder**' for the purpose of this proposal refers to chickens and turkeys whose offspring are either breeding stock or production stock.*

*'**Layer chicken**' is a female chicken kept primarily for laying eggs.*

*'**Meat chicken**' is a male or female chicken kept primarily for meat production (also referred to as broiler chickens).*

Proposed penalty

Breaching age restrictions

Category B (infringement offence which does not result in a criminal conviction). A $500 fee or a maximum $1,500 fine if imposed by the Court may apply for performing beak tipping in breach of the age restrictions.

Where the offending is by a body corporate involving a large number of animals, enforcement agencies may file a charging document instead of issuing an infringement notice. In such a case the maximum amount the court can impose is $7,500.

Removing too much of the beak

Category C (prosecutable regulatory offence which may result in a criminal conviction). A maximum $3,000 fine for an individual or maximum $15,000 fine for a body corporate may apply for removing too much of the beak.

Breaching the requirements as to method of beak tipping

Category C (prosecutable regulatory offence which may result in a criminal conviction). A maximum $3,000 fine for an individual or maximum $15,000 fine for a body corporate may apply for beak tipping in breach of the required method.

Options analysis

Option 1 - Default to vet only

From May 2020, beak tipping chickens and turkeys may only be lawfully undertaken by a veterinarian.

Option 2 - Regulate the procedure

Regulate the procedure to specify who can undertake beak tipping and when it must be undertaken, (as above).

Option assessment

Table

Option	Effective	Efficient	Clear	Equitable
1.	x	x x	x	—
2.	✓	✓✓	✓✓	✓✓

Analysis of options against criteria

Option 1 - Default to veterinarian-only

This option would not be effective as it would not provide a legal basis for competent non-veterinarians to tip beaks in limited circumstances. If this procedure became a veterinarian-only procedure, it would have major economic and practicality issues for New Zealand's poultry industry. There would not be sufficient veterinarians to perform the work and the additional costs to hatcheries and farmers would be significant.

Only offences and penalties under the Act would be available. Enforcement options for low-level offending would remain limited, so risks to animal health and welfare would not be mitigated.

Option 2 – Regulate the procedure (preferred)

Regulating will be effective in addressing legal ambiguity by providing a legal basis to allow a non-veterinarian – usually hatchery personnel - to undertake beak tipping on chickens and breeder turkeys without the use of pain relief. Regulating to allow for a competent non-veterinarian to tip beaks would be cost effective and practical, to address the numbers of chickens and breeder turkeys that are tipped under seven days of age.

Regulations can set infringement fees and fines for breaching the requirements, which are proportionate to the offence and consistent with penalties for breach of other regulations, where

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	comparable. These will contribute to consistent animal welfare outcomes. Offences and penalties under the Act will also be available for the most serious animal welfare offending.

Rationale for preferred option

Beak tipping is likely to meet the criteria for a significant surgical procedure. Regulations are necessary to allow competent non-veterinarians to continue to tip beaks in circumstances where it is considered appropriate.

An infrared beak trimming machine is proposed as the only method to tip layer chickens in alignment with the Layer Hens Code of Welfare. Although using an infrared beam is the preferred method for beak tipping, not all hatcheries or farms handling non-layer chickens can afford these machines. For example, all breeder turkeys are tipped by hot blade because the industry is small and does not have the resources to access infrared machines.

The proposal places a limit on the maximum age that a beak can be tipped. The beak is less likely to develop neuromas (benign but painful growths of nerve tissue) if the procedure is performed as close to hatching as possible.[34] Therefore beak tipping should be performed as young as possible – three days of age and under to minimise pain felt and tissue impacted.

It is understood that removing only a small piece of the beak tissue maintains the bird's ability to perform more natural feeding behaviours and maintain weight.[35] Accordingly, the proposal limits tipping to removing no more than one quarter of the upper or lower beak for a chicken or breeder turkey.

Beak tipping is routinely performed on layer chickens[36] as well as the breeder layer chickens, breeder meat chickens and breeder turkeys. Breeder birds are, for the purpose of the proposed regulation, breeding stock whose offspring are either breeding stock or production stock. Breeder birds are specifically excluded from the application of the codes of welfare for layer hens and meat chickens. However, NAWAC is currently developing codes of welfare for breeder birds.

To mitigate the risk of complications from using a hot blade it is good practice to tip the beaks of birds that have developed a beak of sufficient size and firmness, to ensure more accurate tipping. It is proposed that breeder layer chickens, breeder meat chickens and breeder turkeys may be tipped up to six days of age with a hot blade. Up to six days allows for sufficient development of the beaks and the size of the birds on which to use a hot blade. Permitting the use of a hot blade on breeder birds is practical because not all hatcheries and farms are able to afford an infrared beak tipping machine and instead use a hot blade.

Exception for cannibalism

In order to manage the risk of cannibalism, an exception is proposed to be able to tip the beak of a bird over three days of age, with veterinary approval.

Expected impact of proposed regulation

There are likely to be no, or only minor improvements for animal welfare, as the obligations in the proposal do not change current practice for layer chickens, breeder birds for layer chickens, and breeder birds for meat chickens.

The poultry industry has estimated there are approximately 20,000 breeder turkeys beak tipped of approximately 200,000 turkeys farmed annually.

Beak tipping is routinely performed on layer chickens and the breeder birds for layer chickens, meat chickens and turkeys. As of 2017 there were 3,775,472 layer chickens, 1,021,599 breeder birds for layer chickens, and 714,059 breeder birds for meat chickens.[37]

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[34] van Niekerk, T.G.C.M. & Jong, Ingrid. (2007). Mutilations in poultry European poultry production systems. Lohmann Information 42 (2007) 1.

[35] Kuenzel, W.J. (2007). Neurological basis of sensory perception: welfare implications of beak trimming. Poultry Science 86, 1273-1282.

[36] Layer chicken is a chicken (*Gallus gallus domesticus* only, i.e. not quails) used primarily to lay eggs.

[37] Statistics New Zealand (2017). Agricultural production statistics: June 2017 (final) – additional tables. Retrieved from https://www.stats.govt.nz/information-releases/agricultural-production-statistics-june-2017-final.

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18. Breeder chickens – spur removal	
Background and issues	Spur removal is the removal of the 'rear toenail' from the backs of legs in male breeding birds. It is performed to minimise injuries inflicted on female breeder birds. During breeding, females are mated with repeatedly in quick succession. If not removed, spurs sometimes can inflict substantial injuries to the backs of females. Permanent spur removal is routinely performed by farmers without pain relief. Temporary spur removal is also commonly performed by recreational breeders. The poultry industry performs spur removal on male breeder birds. Removal involves amputating the spur, which includes the fleshy nub and keratin sheath, with a hot wire or hot blade to prevent regrowth at first day of hatching. The heat is an important component that addresses bleeding and is understood to discourage regrowth.[38] The spur is supplied with nerves and blood vessels and has the potential to cause lasting harm if it is not carried out properly.
Proposal consulted on in online survey (no. 16 in the 2019 discussion document)	A competent person may remove a spur from poultry breeder birds. The owner or person in charge of the animal as responsibility to ensure that only competent people perform this procedure. A spur or rear toenail is a horn-like protrusion of bone that develops on the back of the legs of roosters and sometimes hens. Poultry are any birds farmed for their eggs or meat. A breeder bird is any bird that is used to produce replacement birds.
Submitters' views on proposal	The majority of submitters supported the proposal. NAEAC, NAWAC, SPCA and the Poultry Industry Association of New Zealand were supportive of applying an age limit of one - three days from hatching. Some submitters also recommended that chickens should be bred for smaller spurs. The Poultry Industry Association of New Zealand agreed with this view.
Final proposal (post consultation)	1. A person who permanently amputates a spur from a breeder chicken (*Gallus gallus domesticus*) must: a. be competent; and b. ensure the procedure is performed on the day of hatch. 2. A competent person may perform temporary removal of a spur at any age. 3. The owner or person in charge of a breeder chicken must not allow the animal's spur to be removed except in accordance with the clauses above. *A '**spur**' is a horn-like protrusion of keratin that develops from a fleshy nub on the back of the legs of roosters and sometimes hens.* *'**Breeder chicken**' is a chicken whose offspring are either parent stock or production stock.* *'**Permanent amputation of a spur**' involves the removal of the spur and the fleshy nub on the back of the leg of a rooster.* *'**Temporary removal of a spur**' involves removal or shortening of the keratin sheath.*
Proposed penalty	Category C (prosecutable offence which may result in a criminal conviction). A maximum $3,000 fine for an individual or maximum $15,000 fine for a body corporate may apply for removing a spur of a breeder chicken in breach of the regulation.
Options analysis	
Option 1 - Default to vet only	From May 2020, breeder chicken spur removal may only be lawfully undertaken by a veterinarian.
Option 2 - Regulate the procedure	Regulate the procedure to allow a competent non-veterinarian to perform breeder chicken spur removal on the day of hatch (as above).

[38] van Niekerk, T.G.C.M. & Jong, Ingrid. (2007). Mutilations in poultry European poultry production systems. Lohmann Information 42 (2007) 1.

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Option assessment Table

Option	Effective	Efficient	Clear	Equitable
1.	x	x x	x	—
2.	✓	✓✓	✓✓	✓

Analysis of options against criteria

Option 1 - Default to veterinarian-only

This option would not be effective as it would not provide a legal basis for competent non-veterinarians to remove spurs. If this procedure became a veterinarian-only procedure, it would have major economic and practicality issues for New Zealand's poultry industry. There would not be sufficient veterinarians to perform the work and it would add significant additional costs to hatcheries and farmers.

There may be a lack of clarity about whether the procedure is a significant surgical procedure and therefore whether non-veterinarians can continue to remove spurs. The likely consequence is that the poultry industry would cease removing spurs and non-commercial owners may continue to remove spurs in breach of obligations instead of paying a veterinarian to perform it.

For serious animal welfare offending relating to spur removal, a person may be prosecuted under the Act (same as currently).

Option 2 – Regulate the procedure (preferred)

This option will be effective in addressing legal ambiguity by providing a legal basis to allow a non-veterinarian to remove spurs from breeder chickens. Regulating to allow competent people to undertake spur removal will be cost effective and practical, because of the high number of birds involved. It will provide clarity about the maximum age of the chicken at which the spur removal can be performed. This will help people comply with good practice and minimise the impact on animal welfare for the male chickens.

Regulations can set fines for breaching the age limit requirement, which are proportionate to the offence and consistent with penalties for breach of other regulations, where comparable.

Rationale for preferred option

The proposal has been limited to breeder chickens, to allow competent non-veterinarians to continue to remove spurs beyond May 2020, in line with current practice. Allowing the procedure to be performed on the day of hatch for full amputation of the spur (fleshy nub and keratin sheath) is based on current industry practice and will minimise the pain felt and tissue impacted.

Temporary spur removal is also commonly performed by recreational breeders. It is unclear whether some methods of temporary spur removal used by recreational breeders meet the criteria of a significant surgical procedure. MPI proposes to regulate to allow recreational breeders to continue to use temporary spur removal techniques until further evidence supports restriction or prohibition.

NAWAC is developing a code of welfare for breeder chickens, with spur removal being a potential area for consideration.

Expected impact of proposed regulation

The obligations in this proposal do not change current practice and should therefore have little impact on commercial practice. However, an age limit ensures that industry practice is maintained and spurs are removed as young as possible to maintain good animal welfare. Regulating an age limit will not unduly restrict temporary spur treatments available to recreational breeders where there are alternative methods already available.

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19. Breeder chickens – restrictions on partial toe amputation	
Background and issues	Toe trimming is the amputation of the tip of a bird's toes to remove the toenails – usually the fourth digit (the nail-bed and one phalange). Sharp pliers or scissors are used to amputate the portion of the toe. Partial toe amputation is used to mark the sex of breeder birds for meat chickens and genetic lines of breeder birds for layer chickens and meat chickens so they can be identified by sight. Breeder birds for layer chickens do not require sexing because male and female layers are identifiable by their distinctly coloured feathers. The procedure is performed in hatcheries within the first five days of a chick hatching. It is used to identify the genetic lines of primary breeders, as birds from different lines are generally raised together. Other methods of identification, such as wing tags or leg bands are impractical to use on birds under three weeks of age because of how quickly the birds outgrow them. Hatcheries use a mix of toe trimming or toe slitting based on their own preferences. Both procedures are used for identification. Toe trimming is routinely performed by hatcheries without pain relief. Due to the large number of toes trimmed, it would be impractical to obligate veterinarians to perform the procedure. As of 2017 there were 1,021,599 breeder birds for layer chickens and 714,059 breeder birds for meat chickens.[39]
Proposal consulted on in online survey (no. 17 in the 2019 discussion document)	A competent person may trim the toes of poultry breeder birds. Poultry are any birds farmed for their eggs or meat.
Submitters' views on proposal	Industry representatives supported the proposal because they believe it is necessary for strain identification and there are no alternative identification methods that are viable. Advocacy groups sought a prohibition of the procedure given there are alternative forms of identification available (e.g. expandable leg bands, wing tags, dyes, microchips) or otherwise thought there should be a one day age limit with pain relief. Veterinary organisations preferred prohibition because there are alternative management techniques to achieve the same purpose. NAWAC and NAEAC advocated for using alternatives available but if the procedure is considered necessary they considered it should be performed within the first three days of life; web slitting is preferable because it is less invasive than toe trimming. A poultry veterinarian advised the procedure must be performed at hatch so there is the least chance of mix-up. In this submitter's view, alternatives are not practical, because the chicks are too small for tags, and web slitting offers no welfare advantages.
Final proposal (post consultation)	1. A person who partially amputates the toe of a breeder chicken (*Gallus gallus domesticus*) for the purposes of identification must: a. be competent; and b. ensure that only one joint is amputated; and c. ensure the procedure is performed under three days of age. 2. The owner or person in charge of a breeder chicken must ensure that any of the animal's toes are not amputated in breach of this regulation. *'Partial toe amputation' is the amputation of one toe joint at the end of a bird's toe (the nail-bed and one phalange) for the purpose of identification*
Proposed penalty	Category C (prosecutable regulatory offence which may result in a criminal conviction). A maximum $3,000 fine for an individual or maximum $15,000 fine for a body corporate may apply for amputating more than one toe joint of a breeder chicken or performing partial toe amputation on a chicken older than three days.

[39] Statistics New Zealand (2017). Agricultural production statistics: June 2017 (final) – additional tables. Retrieved from https://www.stats.govt.nz/information-releases/agricultural-production-statistics-june-2017-final.

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Options analysis	
Option 1 - Default to vet only	From May 2020, partial toe amputation on breeder chickens may only be lawfully undertaken by a veterinarian.
Option 2 - Regulate the procedure	Regulate the procedure to specify who can undertake partial toe amputation on breeder chickens, how much may be amputated, and for age limitations on the animal (as above).
Option assessment Table	

Option	Effective	Efficient	Clear	Equitable
1.	x	x x	x	—
2.	✓	✓✓	✓✓	✓

Analysis of options against criteria

Option 1 - Default to veterinarian-only

This option would not be effective as it would not provide a legal basis for competent non-veterinarians to partially amputate toes of breeder chickens. If this procedure became a veterinarian-only procedure, it would have major economic and practicality issues for New Zealand's poultry industry. There would not be sufficient veterinarians to perform the work and it would add significant additional costs to hatcheries and farmers. There are alternative methods of identification that could be used as a substitute for toe amputation but are understood to be impractical.

There may be a lack of clarity about whether the procedure is a significant surgical procedure and therefore whether non-veterinarians can continue to partially amputate toes of breeder chickens.

Any animal welfare offending associated with performing the procedure would only be able to be prosecuted under the Act, which may be disproportionate to the nature of the offending (same as it is currently).

Option 2 – Regulate the procedure (preferred)

This option will be effective in addressing legal ambiguity by providing a legal basis to allow a non-veterinarian to partially remove a toe from breeder chickens. Regulating to allow competent non-veterinarians to partially amputate a toe will be cost effective and practical, due to the number of chickens on which the procedure is performed. It will provide greater clarity about any restrictions (i.e. the maximum age of the chicken at which the amputation can be performed and limiting what can be amputated). This will help people comply with good practice.

Regulations can set fines for breaching requirements, which are proportionate to the offence and consistent with penalties for breach of other regulations, where comparable. Placing restrictions on the age of the chicken (for when the procedure can be performed) and limitations on what can be amputated will minimise the impact on animal welfare.

Rationale for preferred option

The commercial industry considers that partial toe amputation is necessary for identification because there are no effective alternatives. They have advised that web slitting is not viable because of some companies' obligations to comply with the United Kingdom's minimum standards (web slitting is banned). Other methods for identification (e.g. fixed and flexible leg bands, wing tags, dyes) are impractical because they drop off easily, are short-lived, and/or require frequent reapplications, which risk negative welfare outcomes (e.g. injuries from outgrowing them).

Regulations are necessary to allow competent non-veterinarians to continue to partially amputate toes beyond May 2020 as the procedure is likely to meet the criteria of a significant surgical procedure.

Expected impact of proposed regulation

While the age limit is a new legal obligation the proposal does not change current practice and should therefore have little impact on industry practice. Regulating will set an expectation that the procedure is performed as young as possible to minimise pain felt and the amount of tissue impacted. This will also enable MPI to penalise breaches of the age restriction and the number of toes which can be partially removed. Partial toe amputation is routinely performed on the breeder birds for layer chickens and breeder birds for meat chickens.

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20. Game fowl – restrictions on dubbing	
Background and issues	Dubbing is the removal of the comb, wattle, and earlobes of poultry. It is performed as a management practice by recreational game fowl breeders to reduce the risk of injuries and fatalities from fighting between game fowl. Game fowl (old English game fowl and bantams, and modern game fowl and bantams) were traditionally bred for aggressive characteristics for use in cockfighting. As a consequence, these breeds are substantially more aggressive than other poultry.[40] Cockfighting is illegal in New Zealand and the birds are bred for showing. The birds retain their aggressive characteristics and dubbing is performed to improve welfare outcomes for the birds. Dubbing is currently performed by non-veterinarians, often game fowl breeders, using pain relief. Guidance has been provided to game fowl owners recommending the use of topical pain relief when dubbing. Poultry and game fowl breeders are understood to routinely use topical pain relief when dubbing birds. Xylocaine jelly (lignocaine 2%) is the commonly used pain relief. It is a human medicine and is available over-the-counter. Although it is human pain relief it must be authorised by a veterinarian to be used on an animal for the purpose of dubbing.
Proposal consulted on in online survey (no. 26 in the 2019 discussion document)	In the 2016 consultation process, stakeholders provided divergent views on whether the practice of dubbing is necessary and, if it is necessary, how it should be performed. MPI therefore sought feedback on two options. Option 1 is the original proposal with the addition of a requirement to use pain relief authorised by a veterinarian, and option 2 is a new alternative based on feedback from some stakeholders. *Option 1* A competent person may dub game fowl. The bird must be given pain relief that is authorised by a veterinarian for the purpose of the procedure. Or *Option 2* Dubbing of game fowl is veterinarian-only. Pain relief must be used at the time of the procedure.
Submitters' views on proposal	Half of individual submitters supported the option of dubbing using approved pain relief. However, nearly all of the organisations submitting – veterinary organisations, animal advocates and NAEAC – recommended prohibition of the procedure. They considered that dubbing was not necessary and that aggression in game fowl could be managed using different management systems. SAFE considered that if game fowl cannot be kept without dubbing, then it is unacceptable to keep them at all. If it must be performed, SAFE argued only veterinarians should be permitted to perform it to ensure appropriate pain relief is given and it is only performed for therapeutic reasons.
Final proposal (post consultation)	1. A person who dubs a game fowl must: a. be competent; and b. use pain relief authorised by a veterinarian for the purpose of the procedure, throughout the procedure. 2. The owner and person in charge of a game fowl must not allow it to be dubbed except in accordance with the clauses above. *'Dubbing' is the amputation of the comb, wattle, and earlobes from the head of poultry.* *A 'comb' is a fleshy growth or crest on the top of the head of poultry.* *A 'wattle' is fleshy appendage hanging from the head and/or neck of poultry.* *'Game fowl' means old English game fowl and bantams, and modern game fowl and bantams.*

[40] Millman S. T., Duncan I. J., and Widowski T. M. (2000). Male Broiler Breeder Fowl Display High Levels of Aggression Towards Females. Poultry Science 79, 1233-1241.

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Proposed penalty	Category C (prosecutable regulatory offence which may result in a criminal conviction). A maximum $3,000 fine for an individual or maximum $15,000 fine for a body corporate may apply for failing to use pain relief authorised by a veterinarian when dubbing a game fowl.
Options analysis	
Option 1 - Default to vet only	From May 2020, dubbing game fowl may only be lawfully undertaken by a veterinarian.
Option 2 - Regulate the procedure	Regulate the dubbing of game fowl to specify who can undertake dubbing and to require pain relief for the procedure (as above).
Option assessment Table	

Option	Effective	Efficient	Clear	Equitable
1.	x	x	x	—
2.	✓	✓	✓✓	✓✓

Analysis of options against criteria

Option 1 - Default to veterinarian-only

This option would not be effective as it would not provide a legal basis for competent non-veterinarians to dub game fowl. Further, there are few veterinarians with experience treating birds and fewer still veterinarians with experience treating game fowl. Dubbing is routinely performed on game fowl by competent non-veterinarians with pain relief. If dubbing defaulted to being a veterinarian-only procedure, it would not be cost effective and practical, as there may not be sufficient avian veterinarians to undertake the procedure, and it would increase costs for game fowl breeders who have previously been carrying out the procedure themselves.

There may be a lack of clarity about whether the procedure is a significant surgical procedure and therefore whether non-veterinarians can continue to dub game fowl.

For serious animal welfare offending relating to spur removal, a person may be prosecuted under the Act (same as currently).

Option 2 – Regulate the procedure (preferred)

This option will be effective in addressing legal ambiguity by providing a legal basis to allow competent non-veterinarians to dub game fowl. Regulating to allow competent non-veterinarians to dub using pain relief authorised by a veterinarian will be cost effective, while providing for animal welfare.

Regulations can set infringement fees and fines for breaching the requirements, which are proportionate to the offence and consistent with penalties for breach of other regulations, where comparable.

Rationale for preferred option

While there was strong opposition to dubbing, breeders claim that game fowl are akin to wild animals and express distressed behaviour when caged for long periods of time. There are no clear known alternatives to current management practices that adequately balance the welfare of game fowl and negate the need for dubbing. Further, recreational breeders do not have the same resources as commercial operations to invest in innovation.

Requiring pain relief will address some of the concerns of opponents. The topical pain relief that is currently used requires veterinary approval. Therefore veterinarians will have a level of oversight over the procedure, because they can use their discretion to decide whether the pain relief is appropriate, whether the person is competent to dub, and whether the procedure is being performed in the best interests of the game fowl.

There are no minimum standards for game fowl and they are unlikely to be addressed in a code of welfare given they are bred recreationally by a small number of breeders (approximately 50-70 breeders in New Zealand).

Expected impact of proposed regulation

Animal welfare should be maintained and improved by requiring competency and pain relief. This is because there are no existing standards for dubbing, so the proposed regulation will impose additional responsibilities for game fowl breeders. Regulations will provide for veterinarian oversight of dubbing, by clarifying that veterinary approval is required to apply the human topical pain relief that is used for the procedure, even though the drug itself can be purchased over the counter.

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Deer

21. Deer – restrictions on develvetting (velvet antler removal)	
Background and issues	Antlers, unlike horns in other animals, are grown and shed on an annual cycle. During the growth phase they are referred to as velvet antler, because the antler is a hairy velvet-like structure which has a rich supply of nerves and blood vessels. The structure eventually calcifies into the hard antler which does not have the same nerve or blood supply. In commercial deer farming in New Zealand, antlers are most commonly removed during the velvet stage. When velvet prices are strong farmers retain male offspring to build up their velvet herds, however when the prices fall they often dispose of their velvet herds in favour of venison production. Develvetting is currently a controlled surgical procedure under section 18 the Act . Only a veterinarian, veterinary student under direct supervision of a veterinarian, or an owner or employee of an owner of deer with written veterinary approval may perform the procedure. This section will be revoked on 9 May 2020. Regulation is required to maintain the standards and requirements currently in place for the procedure.
Proposal consulted on in online survey (no. 31 in the 2019 discussion document)	1. A person must not develvet a deer unless – a. the deer is given appropriately placed and effective pain relief that is authorised by a veterinarian for the purpose of the procedure; and b. the person is – i. a veterinarian, or veterinary student under the direct supervision of a veterinarian throughout the procedure; or ii. the owner of, or the employee of the owner of, the deer, who has written veterinary approval to undertake the procedure. 2. A person who develvets a deer must be competent. 3. The owner, and every person in charge, of a deer must not allow that deer to be develvetted except in accordance with the clauses above. For the purpose of this proposal, when develvetting a yearling deer, pain relief includes high pressure rubber rings (distinct from high tension bands) designed for the purpose of inducing analgesia during develvetting. A yearling deer is defined as a deer that is under the age of 12 months or has its first set of antlers.
Submitters' views on proposal	The proposal was originally consulted on in 2016, and was generally supported by submitters. However, industry preferred requirements that are more stringent and are concerned regulations may undermine operational and quality control procedures currently in place. The current programme provides high animal welfare standards and is in place to protect the reputation of New Zealand's develvetting industry. It also provides quality assurances for export. Industry representatives supported the adoption of the standards developed by the National Velvetting Standards Body, including referring to the National Velvetting Standards Body in regulation. They consider that the current proposal does not go far enough and undermines the high standard upheld by the National Velvetting Standards Body. Advocacy groups supported the prohibition of develvetting in New Zealand. Otherwise, they considered that both pre- and post-operative pain relief should be required. Veterinary organisations supported the proposal to regulate.
Final proposal (post consultation)	1. A person who develvets a deer must: a. be competent; and b. use appropriately placed and effective pain relief that is authorised by a veterinarian for the purpose of the procedure. 2. In the context of this regulation, a person is competent if they are: a. a veterinarian who has the relevant expertise and practical experience to perform the procedure; or

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b. the owner of the deer, or the employee of the owner of the deer, who has written veterinary approval, and who complies with the standards set out by the National Velvetting Standards Body's develvetting quality management programme, or any other similar programme with equivalent or higher standards.

3. A veterinarian who issues written veterinary approval must be satisfied that the person has the relevant:

   a. expertise;

   b. practical experience;

   c. drugs;

   d. equipment; and

   e. accommodation to perform the procedure.

4. The owner or person in charge of the deer must not allow it to be develvetted except in accordance with the clauses above.

For the purpose of this proposal, when develvetting a yearling deer, pain relief includes high pressure rubber rings (distinct from high tension bands) designed for the purpose of inducing analgesia during develvetting.

A 'yearling deer' is defined as a deer under 12 months of age or which has its first set of antlers.

Proposed penalty

Category C (prosecutable regulatory offence which may result in a criminal conviction). A maximum $3,000 fine for an individual or maximum $15,000 fine for a body corporate may apply for failing to use appropriate pain relief when performing develvetting, or failing to have written veterinary approval, or failing to meet the accreditation requirements set out by the National Velvetting Standards Body quality management programme or equivalent.

Options analysis

Option 1 - Default to vet only

From May 2020, deer develvetting may only be lawfully undertaken by a veterinarian. This is because there will be no legislative or regulatory standards and requirements for deer develvetting.

Option 2 - Regulate the procedure

Regulate for standards and requirements for deer develvetting (as above).

Option assessment Table

Option	Effective	Efficient	Clear	Equitable
1.	✓	x	x	—
2.	✓✓	✓✓	✓✓	✓✓

Analysis of options against criteria

Option 1 - Default to veterinarian-only

This option would not be effective as it would not provide a legal basis for competent non-veterinarians to continue to develvet a deer, which is contrary to what is currently allowed under the Act. Under the Act, develvetting is a 'controlled procedure' and as such non-veterinarians are able to undertake the procedure as long as they have the prior written approval of a veterinarian. If non-veterinarians are not permitted to lawfully continue to perform develvetting, there would be negative impacts on the deer industry. It would also not make the best use of the knowledge and skills of trained and experienced non-veterinarians who are specialists in develvetting; this is inefficient, with no advantage to animal welfare outcomes and meeting the purpose of the Act. There may be a lack of clarity about whether the procedure is a significant surgical procedure and therefore whether non-veterinarians can continue to undertake develvetting.

Any animal welfare offending associated with performing the procedure would only be able to be prosecuted under the Act, which may be disproportionate to the nature of the offending (same as it is currently).

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	Option 2 – Regulate the procedure (preferred) Regulations will be effective in addressing legal ambiguity by providing a legal basis to allow a competent non-veterinarian to continue to develvet deer. Allowing non-veterinarians to continue to develvet deer, under defined parameters, will make the most effective use of the system that has been developed to train and audit non-veterinarians to meet the requirements of the existing 'controlled procedure' regime (which will be revoked from May 2020). Regulating will provide greater clarity about who can undertake the procedure once the 'controlled procedure' regime is revoked in May 2020. Under this option, infringement fees and fines can be set in regulation, which are proportional to the offence, in terms of harm and distress caused to the animal if the regulation is breached. Regulatory penalties may be set to be consistent with penalties for breach of other regulations, where comparable, and in such a way that they are clear and enforceable.
Rationale for preferred option	
Referring to the National Velvetting Standards Body The intention of the proposal is to encapsulate in regulation the National Velvetting Standards Body programme, without limiting the possibility of another accreditation programme developing if it can match or improve on the current programme. The National Velvetting Standards Body is made up of representatives from Deer Industry New Zealand and the New Zealand Veterinary Association, but is not a legislated body. MPI considers that as the National Velvetting Standards Body is recognised throughout the deer industry, it is appropriate to refer to its programme in regulation, while also allowing for equivalent programmes to be recognised.[41] *Pain relief* Under the Act a person may only undertake develvetting if they use the appropriate pain relief. Under the current National Velevetting Standards Body standards, the appropriate drugs for pain relief are listed as either local anaesthetic (usually lignocaine 2%) or NatureO™ rings.[42] MPI considers that both types of pain relief, used correctly, are appropriate for relieving the pain experienced during this procedure.	
Expected impact of proposed regulation	
This proposal will have little to no impact on animal welfare, as it is regulating for current practice. There may be some benefits to animals, which have previously not been develvetted correctly, due to the greater enforceability and therefore deterrent of a regulation. The proposal will have little to no impact on time or monetary costs for deer farmers/owners, as it is regulating for current practice. Industry submissions noted that if the proposal does not properly encapsulate the current standards required by the National Velvetting Standards Body then it would be a risk to both animal welfare and New Zealand's reputation.	

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[41] The National Velvetting Standards Body has a Memorandum of Understanding with MPI to enforce the Regulated Control Scheme for Deer Velvet Harvest under the Animal Products Act 1999, and NVSB auditors are also recognised persons under the Animal Products Act 1999.

[42] National Velvetting Standards Body. Farmer Velvet Antler Removal Manual. (2005).

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General procedures

22. All animals – restrictions on performing epidurals	
Background and issues	An epidural is an injection of local anaesthetic into the extradural space between spinal vertebrae. The procedure is used to paralyse the nerves that pass through the anaesthetised area and prevent the animal from feeling any sensations in that area. Epidurals are performed by both veterinarians and non-veterinarians. The local anaesthetic needed to perform an epidural is a restricted veterinary medicine under the Agricultural Compounds and Veterinary Medicines Act 1997. Veterinarians are able to authorise non-veterinarians to administer restricted veterinary medicines. Non-veterinarians performing epidurals are therefore undertaking this procedure with some level of veterinary oversight. For example, non-veterinarians performing epidurals include veterinary nurses and technicians performing epidurals under veterinarian supervision in clinical settings, as well as competent non-veterinarians working in controlled environments in association with reproductive procedures. There is potential for harm if this procedure is not carried out correctly.
Proposal consulted on in online survey (no. 5 in the 2019 discussion document)	Performing an epidural will be veterinarian-only, unless: the person is competent to perform the procedure; and they are carrying out the procedure in association with a surgical or non-surgical reproductive procedure; and they are using an epidural anaesthetic authorised by a veterinarian for the purpose of the procedure.
Submitters' views on proposal	The majority of submitters considered the scope of circumstances in which it was proposed that competent non-veterinarians could administer epidurals (i.e. for reproductive purposes only) should be widened, so that potential animal welfare benefits could be gained. For example, some non-veterinarians perform epidurals on sheep and cattle to provide pain relief during treatment of prolapses and to assist during calving and lambing. NAWAC considered epidurals can be performed by competent people with veterinary oversight except in horses (equids) which should be veterinarian-only procedures, due to technical difficulty, and the risk and consequences of the procedure going wrong.
Final proposal (post consultation)	1. A person who performs an epidural on an animal (except for an equid) must: a. be competent; and b. use local anaesthetic authorised by a veterinarian for the purpose of the procedure. 2. Performing an epidural on an equid is a veterinarian-only procedure. 3. The owner or person in charge of an animal must not allow any of the above procedures to be performed on the animal except in accordance with the clauses above. *An '**epidural**' is an injection of local anaesthetic into the extradural space between spinal vertebrae.* *'**Equid**' means any member of the equidae family, including any horse, pony, donkey, mule, other wild ass, zebra, and any of their hybrids.*
Proposed penalty	Category C (prosecutable regulatory offence which may result in a criminal conviction). A maximum $3,000 fine for an individual or maximum $15,000 fine for a body corporate may apply if a person administers an epidural on an animal without using local anaesthetic authorised by a veterinarian for the procedure. Category C (prosecutable regulatory offence which may result in a criminal conviction). A maximum $3,000 fine for an individual or maximum $15,000 fine for a body corporate may apply if a non-veterinarian performs an epidural on an equid.
Options analysis	
Option 1 - Default to vet only	From May 2020, an epidural on any animal may only be lawfully undertaken by a veterinarian.
Option 2 - Regulate the procedure	Regulate epidurals to specify who can administer an epidural, on which animals, and to require local anaesthetic (as above).

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Option assessment

Table

Option	Effective	Efficient	Clear	Equitable
1.	x	x	x	—
2.	✓✓	✓✓	✓✓	✓✓

Analysis of options against criteria

Option 1 – Default to veterinarian-only

This option would not be effective as it would not provide an effective legal basis for competent non-veterinarians to continue to perform epidurals, which may be just as effective for good animal welfare outcomes as engaging a veterinarian. There would be additional costs for owners and people in charge of animals, who have previously been able to carry out the procedure themselves or utilise the services of a specialist non-veterinarian. Activities, such as the use of epidurals in clinics for surgical reproductive procedures or on-farm for treating prolapses in cattle, are likely to be precluded if only veterinarians could perform the procedure, as it would not be practical or cost effective. Any animal welfare offending associated with performing epidurals would only be able to be prosecuted under the Act, which may be disproportionate to the nature of the offending (same as it is currently).

Option 2 – Regulate the procedure (preferred)

This option will provide a legal basis for competent non-veterinarians to continue to perform epidurals when undertaking specialised reproductive procedures. Regulating to allow a competent person to perform epidurals allows the ability to make best use of the knowledge and skills of trained and experienced non-veterinarians who are specialists in certain areas of animal care. For example, veterinary staff in veterinary clinics are trained to perform epidurals on animals to prepare them for surgery by a veterinarian. Competent staff may administer an epidural under the supervision of the veterinarian.

Regulation will also improve animal welfare in cases where competent non-veterinarians perform epidurals on sheep and cattle to provide pain relief during treatment of prolapses and to assist during calving and lambing issues. Where it is appropriate for a veterinarian to carry out the procedure on certain animals, due to the risk and complexity of administering an epidural, the proposed regulation provides for this (i.e. administering an epidural on a horse).

Regulating epidurals will provide greater clarity about what acts and omissions would constitute a breach of the requirements. This will help people comply with their obligations under the Act and contribute to good animal welfare outcomes. Penalties can be set which are proportional to the offence, in terms of harm and distress caused to the animal if the regulation is breached.

Rationale for preferred option

The proposal was changed to address submissions, to allow for competent non-veterinarians to be able to perform epidurals for purposes other than reproductive procedures, such as epidurals on sheep and cattle to provide pain relief during treatment of prolapses and to assist with calving and lambing. The proposed regulation will not completely remove veterinary oversight of epidurals, as the veterinary oversight is required to access the pain relief used for the procedure.

Requiring epidurals to be veterinarian-only for equids

Anatomical differences in horses and other equids in contrast with other animals mean that there is a higher degree of risk and complexity that requires veterinary intervention.[43]

Expected impact of proposed regulation

There may be animal welfare benefits by providing a mechanism for pain relief via an epidural to be more widely accessible to animals than if the procedure was veterinarian only. However, veterinary oversight will be required to access the anaesthetic required to perform the procedure. There is likely to be little impact on people involved in carrying out the procedure, as the proposal reflects current practice.

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[43] Natalini, Claudio & Driessen, Bernd. (2007). Epidural and Spinal Anesthesia and Analgesia in the Equine. Clinical Techniques in Equine Practice. 6. 145–153.

23. All animals – restrictions on surgical reproductive procedures

Background and issues	Surgical reproductive procedures are procedures carried out to enable or manage reproduction. They may also be carried out to improve stock or breed characteristics. These procedures include cutting into or piercing the abdominal cavity to inseminate, or harvest, transfer or implant embryos. They also include laparoscopic procedures, and transvaginal techniques that involve piercing the vaginal wall. Surgical reproductive procedures are currently performed by veterinarians and non-veterinarians on a wide variety of species.
Proposal consulted on in online survey (no. 20 in the 2019 discussion document)	Anyone who performs a surgical reproductive procedure must: • be competent in the appropriate reproductive surgical technique; and • use pain relief authorised by a veterinarian for the purpose of the procedure throughout the procedure. The owner or person in charge of the animal has the responsibility to ensure that only competent people perform this procedure.
Submitters' views on proposal	The majority of submitters supported the need for reproductive procedures to be undertaken while a minority thought they were not necessary. In general advocacy groups and the veterinary community considered that the procedures should either be veterinarian only with pain relief or a competent person with a high degree of veterinary oversight.
Final proposal (post consultation)	1. A person who performs a surgical reproductive procedure must: a. be competent; and b. use pain relief authorised by a veterinarian for the purpose of the procedure, throughout the procedure. 2. The owner or person in charge of an animal must not allow a surgical reproductive procedure to be undertaken on it except in accordance with the clauses above. *'Surgical reproductive' procedures are procedures that include:* • *cutting into or piercing the abdominal cavity for the purpose of artificial insemination, and / or to harvest, transfer or implant embryos; and* • *laparoscopic procedures, and transvaginal techniques that involve piercing the vaginal wall.* Procedures carried out for the primary purposes of sterilisation or delivery of offspring are not included in this proposal.
Proposed penalty	Category C (prosecutable regulatory offence which may result in a criminal conviction). A maximum $3,000 fine for an individual or maximum $15,000 fine for a body corporate may apply if a person performs a surgical reproductive procedure on an animal without using pain relief.
Options analysis	
Option 1 - Default to vet only	From May 2020, surgical reproductive procedures may only be lawfully undertaken by a veterinarian.
Option 2 - Regulate the procedure	Regulate surgical reproductive procedures to specify who can undertake the procedure and to require pain relief (as above).

Option assessment Table

Option	Effective	Efficient	Clear	Equitable
1.	x	x	x	—
2.	✓✓	✓✓	✓✓	✓✓

Analysis of options against criteria

Option 1 - Default to veterinarian-only

This option would not provide an effective legal basis for competent non-veterinarians to continue to perform these procedures. Currently, the specialist reproductive procedures which would revert to being veterinarian only are often performed by specialist reproductive technicians who are not veterinarians. This is particularly the case for reproductive procedures carried out on cattle and sheep, where pain relief is routinely administered. If non-veterinarians are not permitted to lawfully

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	continue to perform these procedures, there would be negative impacts on the animal reproductive industry. There would be additional costs for owners and people in charge of animals, who have previously been able to utilise the services of a specialist non-veterinarian. This is because they would have to engage a veterinarian (with the additional cost of consultation and attendance), in many cases with no animal welfare benefit. Any animal welfare offending associated with performing that procedure would only be able to be prosecuted under the Act, which may be disproportionate to the nature of the offending (same as it is currently). Option 2 – Regulate the procedure (preferred) Regulation of surgical reproductive procedures will be effective in addressing legal ambiguity by providing a legal basis for competent persons to continue to perform these procedures, using pain relief authorised by a veterinarian. No compliance issues have been identified with this group of reproductive technicians. Regulating to allow competent non-veterinarians to perform surgical reproductive procedures allows the ability to make best use of the knowledge and skills of trained and experienced non-veterinarians who are specialists in this area. Requirements for the use of pain relief authorised by a veterinarian would provide a mechanism to help confirm the competence of the person performing the procedure. This option allows for penalties to be set which are proportional to the offence, in terms of harm and distress, if the regulation is breached.
Rationale for preferred option	
Surgical reproductive procedures are currently performed by veterinarians and non-veterinarians on a wide variety of species to control reproduction to improve stock or breed characteristics. Due to the pain caused by this procedure and the potential harm that could be caused if the procedure is not carried out correctly, it is highly likely that it would meet the criteria of a significant surgical procedure. Without regulations specifying otherwise, only a veterinarian would be able to perform surgical reproductive procedures after May 2020. While it is acknowledged that surgical reproductive procedures require a high degree of skill and experience, MPI has no evidence of problems arising from competent persons performing these procedures. They are usually undertaken in highly specialised and controlled environments on healthy animals. Requiring pain relief will provide a level of veterinary oversight that was not mandated previously.	
Expected impact of proposed regulation	
The proposal largely reflects current practice and therefore is likely to have minimal or no impact for animals, people performing the procedures or those involved in the animal reproductive industry. Regulating for pain relief that must be authorised by a veterinarian will provide a level of veterinary oversight and for a higher standard to ensure animal welfare outcomes are maintained.	

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24. All animals – dentistry (restrictions on cutting teeth)	
Background and issues	Teeth cutting is performed on a wide variety of animals by non-veterinarians and veterinarians for a range of reasons. In rabbits, teeth may be cut because they continually grow, and if the teeth are not reduced the animal will not be able to eat. In other instances tusks and fighting teeth are cut for the safety of other animals and/or handlers. Piglets' milk teeth are clipped to prevent lacerations to the sow's udder and to prevent injuries to other piglets from fighting. Veterinarians and non-veterinarians routinely cut teeth using a variety of equipment. Codes of welfare set minimum standards for some procedures including: needle (milk) teeth clipping of piglets, boar tusk trimming, and blunting of fighting teeth in llama and alpaca. If done correctly, teeth cutting is unlikely to be painful and the procedure is not complex. However, some stakeholders consider teeth cutting procedures should be regulated for clarity and animal welfare reasons.
Proposal consulted on in online survey (no. 19 in the 2019 discussion document)	No-one may cut the tooth of an animal except: • a veterinarian or competent non-veterinarian who may: - clip the teeth of a pig less than five days old; or - cut a boar's tusk with a wire; or - cut a llama or alpaca's fighting tooth with a wire, or • a veterinarian who may cut teeth for the purposes of extraction, and pain relief must be used at the time of the procedure. The owner or person in charge of the animal has responsibility to ensure that only competent people perform this procedure. *'Fighting teeth' (sometimes referred to as fangs):* modified canine and incisor teeth found in the jaw between the incisors and the molars. *'Needle teeth':* any small sharp teeth in piglets, but principally the canine teeth.
Submitters' views on proposal	Some submitters felt that teeth cutting should be a veterinarian-only procedure and that pain relief should be provided. However, a substantial majority of submitters supported the need for teeth to be cut by non-veterinarians under the circumstances proposed. Views expressed in submissions included: • the current minimum standards in codes of welfare for cutting teeth should be lifted into regulations to provide clarity; • alternatives to cutting teeth are available; • cutting teeth is more likely to result in fractures and micro fractures of the teeth. In particular, some stakeholders felt the use of bolt cutters on horse's teeth and nail clippers on small animals should be prohibited[44]; • competent non-veterinarians should be able to cut the teeth of animals used in research, testing and teaching under standard operating procedures approved by an animal ethics committee; and • a minimum height above the gum line that teeth can be cut should be regulated. The veterinary community submitted that no restrictions should be placed on veterinarians as they need to use their judgement and are already regulated by a code of conduct.
Final proposal (post consultation)	1. No-one may cut the tooth of animal except: a. a veterinarian; or b. a competent non-veterinarian who may cut: i. the needle (milk) teeth of a pig less than five days old; or

[44] Rod Salter. Rabbit and Rodent Dentistry. World Small Animal Veterinary Association World Congress Proceedings, 2007. https://www.vin.com/apputil/content/defaultadv1.aspx?pId=11242&id=3860700&print=1

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ii. the teeth of any animal under a standard operating procedure which has been approved by an animal ethics committee; or

iii. a boar's tusk with an obstetrical wire or saw designed for the purpose of dentistry; or

iv. a llama or alpaca's fighting tooth with an obstetrical wire or saw designed for the purposes of dentistry.

2. The owner or person in charge of an animal must not allow its teeth to be cut except in accordance with the clauses above.

'Fighting teeth' (sometimes referred to as fangs) are modified canine and incisor teeth found in the jaw between the incisors and the molars.

'Needle (milk) teeth' are sharp teeth in piglets, principally canine teeth.

Proposed penalty

Category B (infringement offence which does not result in a criminal conviction). A $500 fee or a maximum $1,500 fine if imposed by the Court may apply for cutting a boar's tusk, a llama's fighting tooth, or an alpaca's fighting tooth, with a tool other than an obstetrical wire or saw designed for the purpose of dentistry.

Category C (prosecutable regulatory offence which may result in a criminal conviction). A maximum $3,000 fine for an individual or maximum $15,000 fine for a body corporate may apply where a non-veterinarian cuts any other animal's tooth, cuts a pig's needle teeth over five days of age, or cuts an animal's teeth in breach of the requirements relating to a standard operating procedure.

Options analysis

Option 1 - Default to vet only

From May 2020, cutting an animal's teeth may only be lawfully undertaken by a veterinarian.

Option 2 - Regulate the procedure

Regulate cutting teeth, to specify who can perform this type of dentistry on animals, how it must be undertaken, and on which animals (as above).

Option assessment

Table

Option	Effective	Efficient	Clear	Equitable
1.	x	x	x	—
2.	✓✓	✓✓	✓✓	✓✓

Analysis of options against criteria

Option 1 - Default to veterinarian-only

Given the nature of the procedures, there would be legal uncertainty about whether or not the procedures were significant surgical procedures and therefore would be veterinarian-only from May 2020. This may deter competent non-veterinarians, who are likely to be effective from an animal welfare perspective, from performing these procedures.

There would be additional costs for operators who have previously been able to carry out these procedures themselves or utilise the services of a specialist non-veterinarians. This is because they would have to engage a veterinarian (with the additional cost of consultation and attendance), in many cases with no animal welfare benefit. In some situations, for example cutting the teeth of rats used in research, testing and teaching, this option would be impractical given the potentially large numbers of animals on which the procedure needs to be undertaken.

Any animal welfare offending associated with performing these procedures would only be able to be prosecuted under the Act, which may be disproportionate to the nature of the offending (same as it is currently).

Option 2 – Regulate the procedure (preferred)

Regulating teeth cutting will be effective in addressing legal ambiguity by providing a legal basis to allow a competent non-veterinarian to continue to undertake teeth cutting, where it is appropriate. It is cost effective and practical, and if the procedure is performed correctly, will ensure the purposes of the Act are met. Regulating will provide greater clarity about who can undertake the procedures and what is required, including correct equipment. This will help people comply with their obligations under the Act and contribute to good animal welfare outcomes.

Regulatory penalties may be set which are consistent with penalties for breach of other regulations, where comparable. They can be set in such a way that they are clear and enforceable.

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Rationale for preferred option
It is unclear whether cutting teeth would meet the criteria of a significant surgical procedure. If done correctly it is unlikely to be painful and the procedure is not complex. On balance it is considered that regulations are needed to provide clarity. The proposal is based on the following considerations: • Cutting teeth in the circumstances proposed is necessary for the welfare of the animals and/or for the safety of handlers, and the proposal reflects some current minimum standards. • Alternatives such as grinding are not practical or appropriate from an animal welfare perspective in these circumstances. For example, it would be impractical to grind a boars tusk. Restraining the boar for the amount of time necessary to sufficiently grind the tusk is likely be more stressful than cutting the tooth. • No minimum height from the gum line that a tooth must be cut is mandated as there is no current minimum standard in codes of welfare and this issue was not consulted on. • An allowance for a competent person to cut the teeth of animals used in research, testing and teaching has been included based on stakeholder feedback. It is considered that the requirement to work under a standard operating procedure approved by an animal ethics committee will provide oversight of these procedures being undertaken. • Methods of cutting originally consulted on in this proposal have been clarified based on stakeholder feedback.
Expected impact of proposed regulation
There is unlikely to be any impact on animal welfare or on people undertaking the procedures because for most species the proposed regulation generally reflects current practice and minimum standards. However, current practice in relation to some companion animals (such as companion rabbits, rats, mice and guinea pigs) is not well known and no submissions were received from this sector. Therefore, the potential impact of the regulation is unknown.

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25. All animals – performing transcervical insemination

Background and issues	Transcervical insemination is a procedure to deliver sperm directly to the uterus, bypassing the cervix. It involves the passage of a catheter through the cervix and into the uterine lumen. The procedure may be performed with the use of a special catheter and deep abdominal palpation (physical examination using the hands) or by visualisation of the cervix using an endoscope. The procedure is not considered to be painful or complex to perform. If done correctly, transcervical insemination is unlikely to meet the criteria for a significant surgical procedure. Currently transcervical insemination is performed by veterinarians and non-veterinarians.
Proposal consulted on in online survey (no. V in the 2019 discussion document)	This procedure was not proposed for regulation in the 2019 discussion document, but was included in Appendix 5 (Procedures for which no regulations are proposed at this time) under topic no. V - 'All animals – non-surgical reproductive procedures'. Non-surgical reproductive procedures include vaginal insemination (depositing sperm into the vagina), cervical insemination (placement of sperm within the cervix), transcervical/post cervical artificial insemination (penetrating through the cervix to deposit sperm), and embryo retrieval through transcervical methods. It was proposed that instead of regulating, good practice could be achieved through non-regulatory measures such as education.
Submitters' views on proposal	Some submitters thought transcervical insemination would meet the significant surgical procedures criteria. There is a risk of infection and haemorrhage if the reproductive tract is perforated due to incorrect use of equipment in performing transcervical insemination. Submitters supported the procedure being able to be undertaken by competent non-veterinarians.
Final proposal (post consultation)	1. A person who performs transcervical insemination on an animal must be competent. 2. The owner or person in charge of an animal must ensure that only competent people perform this procedure. *'Transcervical insemination' is a procedure to deliver sperm directly to the uterus, bypassing the cervix using a special catheter and deep abdominal palpation or by visualisation of the cervix using an endoscope.* *Note: also referred to as Post Cervical Artificial Insemination in pigs.*
Proposed penalty	Act offences and penalties may apply to the person undertaking the procedure, and the owner or person in charge of the animal, if the animal's welfare is compromised.
Options analysis	
Option 1 - Default to vet only	From May 2020, transcervical insemination on an animal may only be lawfully undertaken by a veterinarian.
Option 2 - Regulate the procedure	Regulate the procedure to specify who can perform transcervical insemination on an animal (as above).
Option assessment Table	

Option	Effective	Efficient	Clear	Equitable
1.	x	x	x	—
2.	✓✓	✓✓	✓✓	—

Analysis of options against criteria	Option 1 - Default to veterinarian-only Given the nature of transcervical insemination, there would be legal ambiguity about whether or not the procedure was a significant surgical procedure and therefore would be veterinarian-only from May 2020. There could be additional costs for operators who have previously been able to utilise the services of a specialist non-veterinarian. If competent non-veterinarians are not permitted to lawfully continue to undertake transcervical insemination, there may be negative impacts on the animal reproductive industry where it is a common non-surgical technique.
	Any animal welfare offending associated with performing transcervical insemination would only be able to be prosecuted under the Act, which may be disproportionate to the nature of the offending (same as it is currently).

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	Option 2 – Regulate the procedure (preferred) Regulating transcervical insemination will be effective in addressing legal ambiguity by providing a legal basis to allow a competent non-veterinarian to continue to do this procedure. Regulating to provide for a competent non-veterinarian to carry out transcervical insemination allows the ability to make best use of the knowledge and skills of trained and experienced non-veterinarians who are specialists in this area. If a competent person has the skill and knowledge required to carry out the procedure including post-procedure care, it may be more practical and efficient for that person to do it. It is cost effective and practical, and if the procedure is performed correctly, will ensure the purposes of the Act are met. Regulating will provide greater clarity about who can undertake the procedure. For serious animal welfare offending relating to undertaking this procedure, for example performing it in such a way that causes suffering to the animal, a person may be prosecuted under the Act. Where a prosecution under the Act is successful, the court can decide what level of penalty is appropriate for that offence, up to a prescribed limit.
Rationale for preferred option	
Regulations are considered necessary to clarify who can perform transcervical insemination. The proposal reflects current practice of non-veterinarians undertaking these procedures, given that the procedure is not considered to be painful or complex to perform. Transcervical insemination is used for intrauterine insemination of frozen semen, without the need for surgery, and is performed by veterinarians and non-veterinarians in highly specific, controlled environments. Artificial insemination of frozen semen allows breeders to improve their breeding programs by incorporating overseas genetics. It is considered that the procedure can be performed by a non-veterinarian with experience and/or specific training. By encouraging people to be trained to perform transcervical insemination, there is potential that the method can be used on other species (e.g. on dogs), rather than more invasive surgical methods currently commonly used. Some animals may require sedation, which will require veterinary authorisation and oversight, however, pain relief is not required.	
Expected impact of proposed regulation	
The proposal reflects current practice so there should be little to no impact for animals, their owners and people who work with animals.	

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26. All animals – inserting a urinary catheter

Background and issues	Urinary catheters are used for animals which have difficulty emptying their bladder, or to relieve urinary incontinence or retention. The use of urinary catheters is a common part of treatment by veterinary nurses in veterinary practice. For larger (production) animals, there may also be situations where a rural technician place urinary catheters without direct veterinary supervision.
Proposal consulted on in online survey (no. VII in the 2019 discussion document)	This procedure was not proposed for regulation in the 2019 discussion document, but was included in Appendix 5 (Procedures for which no regulations are proposed at this time) under topic no. VII - 'All animals – urinary catheters'. It was proposed that instead of regulating, good practice could be achieved through non-regulatory measures such as education.
Submitters' views on proposal	The majority of submitters thought the insertion of urinary catheters should be able to be performed by non-veterinarians in a clinical setting. However, the veterinary community considered the procedure could meet the criteria for a significant surgical procedure due to the interference with sensitive soft tissue and the potential for the procedure to cause serious harm if not performed by a veterinarian.
Final proposal (post consultation)	1. A person who performs urinary catheterisation on an animal must be competent. 2. The owner or person in charge of an animal must ensure that only competent people perform this procedure.
Proposed penalty	Act offences and penalties may apply to the person undertaking the procedure, and the owner or person in charge of the animal, if the animal's welfare is compromised.
Options analysis	
Option 1 - Default to vet only	From May 2020, inserting a urinary catheter may only be lawfully undertaken by a veterinarian.
Option 2 - Regulate the procedure	Regulate the procedure to specify who can undertake the insertion of a urinary catheter in an animal (as above).

Option assessment Table

Option	Effective	Efficient	Clear	Equitable
1.	x	x x	x	—
2.	✓✓	✓✓	✓✓	—

Analysis of options against criteria

Option 1 – Default to veterinarian-only

Given the nature of the procedure, there would be legal ambiguity about whether or not the procedure was a significant surgical procedure and therefore would be veterinarian-only from May 2020. This may deter competent non-veterinarians, who are likely to be as effective from an animal welfare perspective, from performing the urinary catheters insertions.

There would be additional costs for owners and people in charge of animals, who have previously been able to utilise the services of a specialist non-veterinarian. If only veterinarians can perform urinary catheter insertion, it would not be possible to make the best use of the knowledge and skills of trained and experienced non-veterinarians, such as veterinary nurses, who are specialists in this type of procedure. This is inefficient, with no advantage to animal welfare outcomes and meeting the purpose of the Act. Any animal welfare offending associated with performing that procedure would only be able to be prosecuted under the Act, which may be disproportionate to the nature of the offending (same as it is currently).

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	Option 2 – Regulate the procedure (preferred) This option will be effective in addressing legal ambiguity by providing a legal basis to allow a competent non-veterinarian to continue to insert urinary catheters. Regulating to enable competent non-veterinarians to insert urinary catheters will allow animals to be treated in accordance with good practice (ensuring the purposes of the Act are met). The option will be cost effective and practical, for example when the animal is in an isolated location such as a high country station which may mean lengthy delays in accessing a veterinarian. Enabling veterinary nurses to continue to perform the procedure in veterinary clinics will make the best use of their skills and expertise. Regulating will provide greater clarity about who can undertake the procedure. For serious animal welfare offending relating to undertaking this procedure, for example performing it in such a way that causes suffering to the animal, a person may be prosecuted under the Act. Where a prosecution under the Act is successful, the court can decide what level of penalty is appropriate for that offence, up to a prescribed limit.
Rationale for preferred option	
Regulations are considered necessary to clarify who can insert urinary catheters, as it is unclear whether or not the procedure would meet the criteria for a significant surgical procedure. The proposal reflects the current practice of non-veterinarians undertaking the procedure, and in particular veterinary nurses in a veterinary clinic setting. Some of the veterinarian community thought there should be direct veterinary supervision when this procedure is performed by a non-veterinarian. However, it is not considered necessary to require direct veterinary supervision, as it is unlikely that for small animals a catheter will be placed outside of a veterinary clinic. Requiring competency to perform the procedure will ensure the animal's welfare is protected.	
Expected impact of proposed regulation	
The proposal reflects current practice so there should be little to no impact for animals, their owners and people who work with animals.	

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27. All animals – performing cystocentesis

Background and issues	Cystocentesis is a common clinical technique used to obtain a sample of urine from an animal, by inserting a needle through the wall of the animal's body into the bladder.[45] It is undertaken by both veterinarians and non-veterinarians working in clinical practices. The procedure was raised for potential regulation during targeted stakeholder consultation in late 2018. MPI decided not to recommend regulation for the procedure because it considered that, done correctly, it was unlikely to meet the definition of a significant surgical procedure.
Proposal consulted on in online survey (no. VIII in the 2019 discussion document)	This procedure was not proposed for regulation in the 2019 discussion document, but was included in Appendix 5 (Procedures for which no regulations are proposed at this time) under topic no. VIII – 'All animals – cystocentesis'. It was proposed that instead of regulating, good practice could be achieved through veterinarians deciding whether their staff are competent to do the procedure.
Submitters' views on proposal	Submitters considered the procedure may meet the significant surgical procedures criteria, and that without regulation veterinary nurses would be unable to perform the procedure.
Final proposal (post consultation)	1. A person who performs cystocentesis on an animal must be competent. 2. The owner or person in charge of an animal must ensure that only competent people perform this procedure. *'Cystocentesis' involves a needle being inserted through the wall of an animal's body into the bladder to obtain urine samples.*
Proposed penalty	Act offences and penalties may apply to the person undertaking the procedure, and the owner or person in charge of the animal, if the animal's welfare is compromised.
Options analysis	
Option 1 - Default to vet only	From May 2020, performing cystocentesis on an animal may only be lawfully undertaken by a veterinarian.
Option 2 - Regulate the procedure	Regulate to specify who can perform cystocentesis on an animal (as above).

Option assessment Table

Option	Effective	Efficient	Clear	Equitable
1.	x	x	x	—
2.	✓✓	✓✓	✓✓	—

Analysis of options against criteria

Option 1 – Default to veterinarian-only

Given the nature of the procedure, there would be legal uncertainty about whether or not the procedure is a significant surgical procedure and therefore would be veterinarian-only from May 2020. This may deter competent non-veterinarians, who are likely to be as effective from an animal welfare perspective, from performing this procedure.

There would be additional costs for owners and people in charge of animals, who have previously been able to utilise the services of a specialist non-veterinarian. If only veterinarians can undertake cystocentesis, it would not be possible to make the best use of the knowledge and skills of trained and experienced non-veterinarians, such as veterinary nurses, who are skilled in this type of procedure. This is inefficient, with no advantage to animal welfare outcomes and meeting the purpose of the Act.

Any animal welfare offending associated with performing that procedure would only be able to be prosecuted under the Act, which may be disproportionate to the nature of the offending (same as it is currently).

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[45] Science Direct Topics, (2019) Malder's Reptile and amphibian medicine and surgery (3rd edition).

	Option 2 – Regulate the procedure (preferred) Regulating cystocentesis will be effective in addressing legal ambiguity by providing a legal basis to allow a competent non-veterinarian to continue to do this procedure. Regulations will provide for a competent non-veterinarian to perform cystocentesis so that animals may be treated in accordance with good practice (ensuring the purposes of the Act are met) and in a timely manner. Regulating to allow competent non-veterinarians to perform cystocentesis will be cost effective and practical, for example in veterinary clinics where a veterinary nurse may perform the procedure, making the best use of their skills and expertise. Regulating will provide greater clarity about who can undertake the procedure. For serious animal welfare offending relating to undertaking this procedure, for example performing it in such a way that causes suffering to the animal, a person may be prosecuted under the Act. Where a prosecution under the Act is successful, the court can decide what level of penalty is appropriate for that offence, up to a prescribed limit.
Rationale for preferred option	
Veterinary nurses commonly perform cystocentesis under veterinary supervision in veterinary clinics, and it is considered appropriate for them to do so. It is therefore recommended that this procedure is regulated to make it clear that this procedure can be undertaken by non-veterinarians.	
Expected impact of proposed regulation	
The proposal reflects current practice so there should be little to no impact for animals, their owners and people who work with animals.	

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Research, testing and teaching and functions under section 5(3) of the Animal Welfare Act 1999

28. All animals – tissue removal for research, testing and teaching, or for functions under section 5(3) of the Animal Welfare Act 1999	
Background and issues	Tissue removal is routinely performed in research, testing and teaching (RTT) and for section 5(3) functions by competent non-veterinarians. The procedure is generally performed for identification or genotyping purposes. Most procedures performed on animals in RTT are carried out as a part of a project approved by an animal ethics committee (AEC). However, some routine procedures are carried out under standard operating procedures. These standard operating procedures vary in levels of oversight and monitoring from an AEC between each organisation, with some having no oversight at all. There are also procedures carried out under section 5(3) of the Act. Section 5(3) allows agencies carrying out routine procedures, such as tissue removal or tagging, under the Conservation Act 1987 or the Fisheries Act 1996 to do so without requiring AEC approval.

Proposal consulted on in online survey (no. 1 in the 2019 discussion document)	This proposal will apply to the following procedures:
	• All animals – tissue removal/biopsies, digit removal.
	• Fish – removing an entire fin
	• Reptiles - tail tipping/clipping
	• Rodents – tail tipping/clipping, and ear notching of rodents under two weeks of age.
	
	The above procedures will be veterinarian-only unless:
	• The person is competent to perform the procedure; and
	  - they are carrying out the procedure as a function under section 5(3) of the Act; or
	  - they are carrying out the procedure within the context of RTT and have AEC approval.
	
	AEC approval is either an AEC approving a standard operating procedure used outside of an AEC approved project, *or* approving a procedure within an AEC approved project. It would be up to AEC discretion to decide which would be the appropriate approval for each context.
	
	The owner or person in charge of the animal has responsibility to ensure that only competent people perform this procedure.

Submitters' views on proposal	The majority of submissions were in support of the proposal. AEC oversight was mostly accepted to be sufficient to properly assess competency, and it was acknowledged that making these procedures veterinarian only would place unreasonable limitations on these programmes. Of the submitters who opposed the proposal, they generally did so because they did not trust the AEC approval system or because they disapproved of any use of animals in RTT.

Final proposal (post consultation)	1. The procedures in 2 (below) will be veterinarian only, unless the person undertaking the procedure is competent, and is carrying out the procedure:
	  a. under section 5(3) of the Act ; or
	  b. under a standard operating procedure which has been approved by an AEC.
	2. A person who meets the criteria in 1 (above) may undertake the following procedures:
	  a. digit removal of any animal;
	  b. entire fin removal from a fish;
	  c. tail clipping or tipping on a rat, mouse, or reptile;
	  d. ear notching on a rodent under two weeks of age; or
	  e. flipper clipping of a pinniped.
	3. The owner or person in charge of an animal must not allow any of the above procedures to be performed on it except in accordance with the clauses above.

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Proposed penalty	Category C (prosecutable regulatory offence which may result in a criminal conviction). A maximum $3,000 fine for an individual or maximum $15,000 fine for a body corporate may apply if a person removes tissue in breach of the requirements of the regulation.
Options analysis	
Option 1 - Default to vet only	From May 2020, tissue removal undertaken for RTT or for functions under section 5(3) of the Act may only be lawfully undertaken by a veterinarian.
Option 2 - Regulate the procedure	Regulate for a competent person to be able to undertake tissue removal procedures on specified animals, under specified circumstances (as above).
Option assessment Table	

Option	Effective	Efficient	Clear	Equitable
1.	x	x	x	—
2.	✓✓	✓✓	✓✓	✓✓

Analysis of options against criteria

Option 1 – Default to veterinarian-only

If tissue removal is veterinarian only there would not be an effective legal basis for competent non-veterinarians to continue to perform this procedure, outside of AEC-approved projects. Approval of projects would require unnecessary time and costs for what are generally routine procedures.

If non-veterinarians are not permitted to lawfully continue to perform significant tissue removal on animals that they currently undertake this would impact negatively on RTT projects, the purpose of which includes contributing to new insights into human and animal health, animal welfare, animal production and conservation. It would also impact negatively on functions undertaken under section 5(3) of the Act.

There would be additional costs for research agencies who have previously been able to carry out the procedure themselves or utilise the services of specialist non-veterinarians, such as field researchers. This is because they would have to engage a veterinarian (with the additional cost of consultation and attendance), in many cases with no animal welfare benefit. There may also be practicality issues due to insufficient veterinarians being able to meet the demand, especially for projects which involve going on research trips.

Any animal welfare offending associated with performing the procedure would only be able to be prosecuted under the Act, which may be disproportionate to the nature of the offending (same as it is currently).

Option 2 – Regulate the procedure (preferred)

Regulating for a competent person to lawfully perform tissue removal on animals in specified circumstances will mean RTT projects can continue, which contribute to new insights into human and animal health, animal welfare, animal production and conservation. It will also mean functions under section 5(3) of the Act can occur, enabling fisheries management and conservation programmes to continue.

The option will be cost effective and practical as otherwise there may be insufficient veterinarians to meet the demand, especially for projects which involve research trips.

Regulating will provide greater clarity about who can undertake tissue removal, and under what circumstances. This will help people comply with their obligations under the Act.

The option will enable the setting of offences, which are proportional to the lower level penalties that are available under regulation. Penalties may be set which are consistent with penalties for breach of other regulations, where comparable.

For other tissue removal procedures which may be carried out in RTT projects or under section 5(3) which are not specified in the regulation, NAEAC could provide guidance on what procedures do and do not meet the threshold for significant surgical procedures (and therefore whether they would need to be carried out under an AEC-approved project).

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Rationale for preferred option
Removing 'All animals – biopsy/tissue removal' In response to issues raised in consultation, the regulation has been limited to the specified procedures. Stakeholders indicated that it is appropriate for competent non-veterinarians to carry out these procedures under a standard operating procedure. *Clarifying that AEC approved projects are not affected by the regulations* During stakeholder engagement it was noted that including AEC approved projects would mean that the regulation would apply to these projects. This was not the intention and the proposal has been amended accordingly. The final proposal provides for a competent non-veterinarian to undertake tissue removal of the specified animals only if they are carrying out the procedure under a standard operating procedure (i.e. a procedure performed for husbandry or managements purposes, rather than for RTT) which has been approved by an AEC or as a function under section 5(3) of the Act. Otherwise, undertaking these types of tissue removal on any of the specified animals in the proposed regulation are veterinarian-only procedures. *Including 'flipper clipping of a pinniped'* The original proposal did not include flipper clipping of a pinniped. During targeted stakeholder engagement it was noted that routine flipper clipping of sea lions was being considered as part of conservation projects, similar to ear notching or punching in sheep and cattle, but performed on the flipper area of the seal or sea lion. This procedure is likely to meet the criteria for a significant surgical procedure because the clipping is performed in the 'toe' area which is prone to more bleeding than other forms of tissue removal. The procedure differs from ear notching and clipping in other animals, which are not considered to be significant surgical procedures. The procedure is likely to be important for sea lion management, and is performed by competent non-veterinarians, therefore it has been added to the regulatory proposal to make it clear it can continue to be performed by competent non-veterinarians in the specified circumstances.
Expected impact of proposed regulation
There will be minimal, if any, impacts for animals, people performing these procedures, RTT industries or those involved in fisheries or conservation management, as the proposal largely reflects what currently happens. This is because many organisations already have their standard operating procedures approved by their AEC. However, there may be some additional time and financial costs for organisations, which do not currently have AEC-approval for their standard operating procedures.

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29. All animals – surgical tagging for research, testing and teaching, or for functions under section 5(3) of the Animal Welfare Act 1999	
Background and issues	Tagging or transponder implantation are commonly used in research, testing and teaching (RTT) to help identify and collect data from animals. Tagging is also commonly carried out under section 5(3) of the Act. Non-veterinarians often tag animals in the wild to keep track of population numbers and to collect data on an animal's habits. Most procedures performed on animals in RTT are carried out as a part of a project approved by an animal ethics committee (AEC). However, some routine procedures are carried out under standard operating procedures. These standard operating procedures vary in levels of AEC oversight and monitoring across organisations, with some having no oversight at all. There are also procedures carried out under section 5(3) of the Act, which allows agencies carrying out routine procedures, such as tissue removal or tagging, under the Conservation Act 1987 or the Fisheries Act 1996 to do so without requiring AEC approval.
Proposal consulted on in online survey (no. 2 in the 2019 discussion document)	Inserting a tag surgically into an animal's body will be veterinarian only, unless: The person is competent to perform the procedure; and - they are carrying out the procedure as a function under section 5(3) of the Act; or - they are carrying out the procedure within the context of RTT and has AEC approval. The animal must be given pain relief authorised by a veterinarian for the purpose of the procedure. AEC approval is either an AEC approving a standard operating procedure used outside of an AEC approved project, *or* approving a procedure within an AEC approved project. It would be up to an AEC's discretion to decide which would be the appropriate approval for each context. The owner or person in charge of the animal has responsibility to ensure that only competent people perform this procedure.
Submitters' views on proposal	The majority of submissions were in support of the proposal. There was some confusion about what kind of tags were included in the definition of 'surgical tagging' with some supporting the proposal because they believed all forms of tagging listed in the background section of the proposal in the discussion document were included.
Final proposal (post consultation)	1. Surgical tagging will be veterinarian only, unless the person undertaking the procedure is competent, and is carrying out the procedure: a. under section 5(3) of the Act ; or b. under a standard operating procedure which has been approved by an AEC. 2. The animal must be given pain relief authorised by a veterinarian for the purpose of the procedure. 3. The owner or person in charge of an animal must not allow any of the above procedures to be performed on it except in accordance with the clauses above. *'Surgical tagging' is any tag or transponder implantation, other than simple injection, which requires surgical incision of the body wall and insertion of a tag into the body cavity.*
Proposed penalty	Category C (prosecutable offence which may result in a criminal conviction). A maximum $3,000 fine for an individual or maximum $15,000 fine for a body corporate may apply if a non-veterinarian surgically inserts a tag into an animal's body in breach of the requirements of the regulation; or a person fails to use pain relief when surgically tagging an animal.
Options analysis	
Option 1 - Default to vet only	From May 2020, surgical tagging for RTT or for functions under section 5(3) of the Act may only be lawfully undertaken by a veterinarian.
Option 2 - Regulate the procedure	Regulate for a competent person to be able to surgically insert a tag into an animal's body, under what circumstances, and to require pain relief (as above).

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Option assessment

Table

Option	Effective	Efficient	Clear	Equitable
1.	x	x	x	—
2.	✓✓	✓✓	✓✓	✓

Analysis of options against criteria

Option 1 – Default to veterinarian-only

This option would not be effective as it would not provide a legal basis for competent non-veterinarians to continue undertaking surgical tagging, outside of AEC-approved projects. Approval of projects would require unnecessary time and costs for what are generally routine procedures.

If non-veterinarians are not permitted to lawfully continue to perform surgical tagging on animals that they currently undertake this would impact negatively on RTT projects, the purpose of which includes contributing to new insights into human and animal health, animal welfare, animal production and conservation. It would also impact negatively on functions undertaken under section 5(3) of the Act.

There would be additional costs for research agencies who have previously been able to carry out the procedure themselves or utilise the services of specialist non-veterinarians, such as field researchers. This is because they would have to engage a veterinarian (with the additional cost of consultation and attendance), in many cases with no animal welfare benefit. There may also be practicality issues due to insufficient veterinarians being able to meet the demand, especially for projects which involve research trips.

Any animal welfare offending associated with performing the procedure would only be able to be prosecuted under the Act, which may be disproportionate to the nature of the offending (same as it is currently).

Option 2 – Regulate the procedure (preferred)

Regulating for a competent person to lawfully undertake surgical tagging on animals will mean RTT projects can continue, which contribute to new insights into human and animal health, animal welfare, animal production and conservation. It will also mean functions under section 5(3) of the Act can occur, enabling fisheries management and conservation programmes to continue.

The option will be cost effective and practical as in many cases it would not be practical or logistically possible to have a veterinarian providing supervision over all tagging, due to the remoteness of the location or constraints on staff numbers aboard research or commercial fishing vessels.

Regulating will greater clarity about who can undertake surgical tagging, what is required, and under what circumstances. This will help people comply with their obligations under the Act and contribute to good animal welfare. The option will enable the setting of offences, which are proportional to the lower level penalties that are available under regulation. Penalties may be set which are consistent with penalties for breach of other regulations, where comparable.

Rationale for preferred option

These routine procedures are important for research, conservation and fisheries management, and are usually carried out by competent people who have received specialist training. Regulation is necessary to allow these practices to continue.

Including a definition for 'surgical tagging'

The definition of surgical tagging has been included in the proposal itself to clarify what is intended to be covered by 'surgical tagging'.

'Surgical tagging' was intended to include all forms of tag, including transponders which are sometimes surgically inserted into an animal's body cavity. During consultation it was noted that a person could argue a transponder is not a tag, and therefore the regulation would not apply. For clarity, explicit reference to a transponder is included in the proposed regulation wording.

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Clarifying that AEC approved projects are not affected by the regulations During stakeholder engagement it was noted that including AEC approved projects would mean that the regulation would apply to these projects and pain relief would be required to be used. This would mean that an AEC could not approve a research project for surgical tagging with a pain-relief-free control group. This was not the intention and the proposal has been amended accordingly. The final proposal provides for a competent non-veterinarian to undertake surgical tagging on animals with pain relief, only if they are carrying out the procedure under a standard operating procedure (i.e. a procedure performed for husbandry or managements purposes, rather than for RTT) which has been approved by an AEC or as a function under section 5(3) of the Act. Otherwise, undertaking surgical tagging is a veterinarian-only procedure. Animals may be surgically tagged without pain relief for RTT. This is made clear by proposed regulation 5 in Appendix Three below, which clarifies that regulations relating to surgical and painful procedures (apart from regulations to prohibit or restrict certain procedures) do not apply to RTT procedures carried out as part of an AEC-approved project under Part 6 of the Act.
Expected impact of proposed regulation
There will be minimal, if any, impacts for animals, people performing these procedures, RTT industries or those involved in fisheries or conservation management, as the proposal largely reflects what currently happens. Many organisations already have their standard operating procedures approved by their AEC, so there will be no impact on their processes. However, there may be some additional time and financial costs for organisations which do not currently have AEC approval for their standard operating procedures.

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30. All animals - desexing and sterilising of animals used in the context of research, testing and teaching	
Background and issues	Part 6 of the Act provides the framework for the use of animals in research, testing and teaching (RTT). RTT can only be carried out within a project approved by an animal ethics committee (AEC). Currently non-veterinarians are able to carry out significant surgical procedures on animals if done in accordance with Part 6. Desexing and sterilisation is often undertaken routinely for the purpose of facilitating an AEC-approved project, but under a standard operating procedure. Often the procedure is done by a competent non-veterinarian, who has been trained in the procedure by a veterinarian. Desexing is important as a part of population management and to prevent the undesired mixing of important genetic lines. Standard operating procedures are sometimes approved by AECs, however there is no prescribed approval process or review process for AECs to follow when approving standard operating procedures. It is proposed that standard operating procedures are approved by an AEC. Desexing of animals used in RTT is not currently covered by any codes of welfare. However, some animals are covered in individual codes.
Proposal consulted on (no. 3 in the 2019 discussion document)	A competent person may desex or sterilise a: • rodent (for example a mouse or rat); • leporid (for example, a rabbit); or • fish; if they are carrying out the procedure within the context of RTT with an AEC approval. AEC approval is either an AEC approving a standard operating procedure used outside of an AEC approved project, *or* approving a procedure within an AEC approved project. It would be up to AEC discretion to decide which would be the appropriate approval for each context. The animal must be given pain relief authorised by a veterinarian for the purpose of the procedure. The owner or person in charge of the animal has responsibility to ensure that only competent people perform this procedure. 'Desexing' or 'sterilisation' includes any procedure to render an animal infertile, including but not limited to vasectomy, castration, hysterectomy and oophorectomy (ovariectomy).
Submitters' views on proposal	The majority of submissions were in support of the proposal. AEC oversight was generally accepted to be sufficient to properly assess competency, and it was acknowledged that making these procedures veterinarian only would place unreasonable limitations on RTT programmes. Industry groups, the veterinarian community and NAEAC supported the expansion of AEC oversight to standard operating procedures, because for example the AEC could require pain relief. Some changes to the proposal were suggested and were incorporated in the final proposal. NAEAC and advocacy groups supported making pain relief a requirement.
Final proposal (post consultation)	1. Desexing of the animals in 2 (below) will be veterinarian only, unless the person undertaking the procedure is: a. competent; and b. carrying out the procedure under a standard operating procedure which has been approved by an AEC. 2. The proposed regulation applies to: a. rodents; b. mustelids; c. possums; d. rabbits or hares; or e. fish.

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	3. The animal must be given pain relief authorised by a veterinarian for the purpose of the procedure. 4. The owner or person in charge of an animal must not allow any of the above procedures to be performed except in accordance with the clauses above. *'Desexing' or 'sterilising' includes any procedure to render an animal infertile, including but not limited to vasectomy, castration, hysterectomy, and oophorectomy (ovariectomy).*
Proposed penalty	Category C (prosecutable regulatory offence which may result in a criminal conviction). A maximum $3,000 fine for an individual or maximum $15,000 fine for a body corporate may apply if a non-veterinarian desexes or sterilises an animal in breach of the requirements of the regulation or a person fails to use pain relief when desexing or sterilising an animal.
Options analysis	
Option 1 - Default to vet only	From May 2020, desexing and sterilising animals in the context of RTT may only be lawfully undertaken by a veterinarian.
Option 2 - Regulate the procedure	Regulate for a competent person to be able to desex or sterilise certain animals, under what circumstances, and to require pain relief (as above).
Option assessment Table	

Option	Effective	Efficient	Clear	Equitable
1.	x	x	x	—
2.	✓✓	✓✓	✓✓	✓

Analysis of options against criteria

Option 1 – Default to veterinarian-only

If desexing is veterinarian-only there would not be an effective legal basis for competent non-veterinarians to continue to perform this procedure, outside of AEC approved projects. Approval of projects would require unnecessary time and costs for what are generally routine procedures.

If non-veterinarians are not permitted to lawfully continue to perform desexing on animals that they currently undertake this would impact negatively on RTT projects, the purpose of which includes contributing to new insights into human and animal health, animal welfare, animal production and conservation.

There would be additional costs for owners and people in charge of animals, who have previously been able to carry out the procedure themselves or utilise the services of a specialist non-veterinarian. This is because they would have to engage a veterinarian (with the additional cost of consultation and attendance), in many cases with no animal welfare benefit.

Not regulating would leave the status of these procedures unclear as to who can lawfully perform them. Under this option, only Act offences and penalties would be available for the most serious animal welfare offending (as is currently the case).

Option 2 – Regulate the procedure (preferred)

Regulating to enable a competent person to be able to desex or sterilise certain animals within the context of RTT (with AEC approval) will be effective in addressing legal ambiguity by providing a legal basis for competent non-veterinarians to continue to perform the procedures. As a consequence, RTT projects will not be impacted. Appropriate penalties can be set in the regulations, which are effective in encouraging compliance with good practice.

This option will be cost effective and practical, by allowing competent non-veterinarians to carry out the procedures and therefore make best use of their experience and skills. When approving projects AECs must carefully consider the use of animals in the project, including taking into account any requirements under the Act or regulations. It will be clear, and enable the setting of offences, which are proportional to the lower level penalties that are available under regulation. Penalties may be set which are consistent with penalties for breach of other regulations, where comparable.

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Rationale for preferred option
If regulations do not expressly allow non-veterinarians to carry out desexing and sterilisation under a standard operating procedure (which will require AEC approval), this is likely to have a significant impact on RTT projects. Standard operating procedures are not covered by Part 6 of the Act, so each organisation can set out its own process for developing and reviewing standard operating procedures. The proposal requires any standard operating procedure that covers desexing the specified animals be approved by an AEC. This provides added oversight which has not been required for RTT standard operating procedures before, although some organisations already voluntarily have their standard operating procedures approved by their AEC. *Expanding the list of animals* The original proposal only covered desexing and sterilisation of rodents, leporids (rabbits and hares), and fish. During targeted consultation it was noted that other animals are commonly desexed or sterilised outside of an AEC-approved project. Animals are sometimes sterilised to create 'teaser' animals which are not part of the project themselves. Other animals and procedures were considered (e.g. castrating rams); however, these are generally dealt with under other regulations. The list has therefore been expanded to reflect common practice. The approving AEC will have discretion to decide which process it considers most appropriate under which to approve the procedure. Either way, the regulation will provide AEC oversight of the process. *Clarifying that AEC approved projects are not affected by the regulations* During stakeholder engagement it was noted that including AEC approved projects would mean that the regulation would apply to these projects and pain relief would be required to be used. This would mean that an AEC could not approve a research project for desexing or sterilisation with a pain-relief-free control group. This was not the intention and the proposal has been amended accordingly. The proposal provides for a competent non-veterinarian to undertake desexing of the specified animals with pain relief, only if they are carrying out the procedure under a standard operating procedure (i.e. a procedure performed for husbandry or managements purposes, rather than for RTT) which has been approved by an AEC. Otherwise, undertaking desexing on any of the specified animals in the proposed regulation is a veterinarian-only procedure. Animals may be desexed or sterilised without pain relief for RTT. This is made clear by proposed regulation 5 in Appendix Three below, which clarifies that regulations relating to surgical and painful procedures (apart from regulations to prohibit or restrict certain procedures) do not apply to RTT procedures carried out as part of an AEC approved project under Part 6 of the Act.
Expected impact of proposed regulation
There will be minimal, if any, impacts for animals, people performing these procedures, and RTT industries, as the proposal largely reflects what currently happens. Many organisations already have their standard operating procedures approved by their AEC, so there will be no impact on their processes. However, there may be some additional time and monetary costs for organisations, which do not currently have AEC approval for their standard operating procedures.

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Appendix Two – Proposals to prohibit, restrict or clarify certain procedures

Introduction

For each proposal to prohibit, restrict or clarify a procedure on an animal, the tables in this Appendix set out:

a. Background and issues giving rise to the proposal

b. Proposal consulted on in the 2019 discussion document

c. Summary of submitters' views on the regulatory proposal

d. Final proposal

e. Proposed penalty

f. Options assessment of the two options: do not regulate or regulate (including preferred option)

g. Rationale for preferred option

h. Expected impact of the proposed regulation.

Key for options analysis tables

Each proposal is assessed against criteria using the symbols in the chart below.

x x	x	✓	✓✓	—
Much worse than not regulating	Worse than not regulating	Better than not regulating	Much better than not regulating	About the same as doing nothing

List of proposals

1. Amendments to clauses 3 and 54 of the Animal Welfare (Care and Procedures) Regulations 2018 (Castrating horses)
2. Equids – prohibition on blistering, firing, soring, and nicking
3. Equids - restriction on tail docking
4. Equids – restrictions on rectal examination for any purpose
5. Dogs, horses, ponies, donkeys, cattle – restrictions on freeze branding
6. All animals – prohibitions and restrictions on hot branding
7. Dogs – prohibition on ear cropping
8. Cattle – restrictions on teat occlusion

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1. Amendments to clauses 3 and 54 of the Animal Welfare (Care and Procedures) Regulations 2018 (Castrating horses)

Background and issues

Castration is a routine procedure commonly carried out throughout New Zealand on equids to prevent breeding and the development of aggressive behaviours, for the safety of other animals and for handling.

The procedure involves cutting the scrotum to either crush the spermatic cord (closed castration), disable/remove the cord (semi-closed castration), or remove the testicles (open castration).

Regulation 54 (Castrating horses) of the Animal Welfare (Care and Procedures) Regulations 2018 (the 2018 Regulations) already restricts the conditions of castrating horses, ponies and their hybrids: only veterinarians may castrate these animals, and pain relief is mandatory during the procedure. There is confusion (demonstrated through feedback received by MPI) about whether equids that are not horses or ponies (i.e. zebras, donkeys, other wild equids, and their hybrids that are not currently covered by codes of welfare) may be castrated by non-veterinarians.

Proposal consulted on (no. 8 in discussion document)

Amend the existing regulation (clause 54 of the 2018 Regulations) relating to castrating horses to include all equids.

The definition of an equid would be included in regulation as below:

'Equid' — means any member of the equidae family, including any horse, pony, donkey, mule, other wild ass, zebra, and any of their hybrids.

Submitters' views on proposal

A substantial majority of submitters agreed with the proposal. Some expressed concerns that veterinarians may exploit a monopoly and charge more for undertaking the procedure. Comments were made about the appropriate method for castrating. Some animal advocates suggested there should be an obligation to administer post-operative pain relief and noted there are different physiological and anatomical considerations when castrating different equids. NAWAC and NAEAC supported the proposal.

Final proposal (post consultation)

Amend clause 3 *Interpretation* and 54 *Castrating Horses* of the Animal Welfare (Care and Procedures) Regulations 2018 (the 2018 Regulations) to:

a. remove exception for regulation 54 in the definition of 'horse' in clause 3; and

b. amend clause 54 so it applies to all equids.

'Equid' means any member of the equidae family, including any horse, pony, donkey, mule, other wild ass, zebra, and any of their hybrids.

Proposed penalty

Category D (prosecutable regulatory offence which may result in a criminal conviction). A maximum $5,000 fine for an individual or maximum $25,000 fine for a body corporate may apply to a person who is not a veterinarian who castrates an equid or to a veterinarian who does not use pain relief during the procedure.

Option assessment (not regulate or regulate)

Table

Option	Effective	Efficient	Clear	Equitable
1	x	—	x x	—
2	✓✓	—	✓✓	—

Analysis of options against criteria

Option 1 – Do not amend current regulations to apply to all equids

If the regulations are not amended, there would be ongoing confusion regarding requirements for castrating equids that are not horses or ponies. This could result in negative animal welfare issues if other equids are not castrated by competent veterinarians with pain relief.

Option 2 – Amend current regulations to apply to all equids

Amending the current regulations to clarify that the horse castration requirements extend to all equids will resolve confusion and make the obligations on equid owners clear. It will be effective for animal welfare as it will bring castration of all equids into line with the rules for horses and ponies, by requiring the procedure to be undertaken by a veterinarian with pain relief.

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Rationale for preferred option
Horses, donkeys, and zebras are all equids but have different needs, and are kept for significantly different purposes in different environments. The anatomical similarities allow for them to be considered together. The proposed amendments to current regulations will resolve the confusion about castration requirements for equids other than horses. Regulations will make it clear that castration of any equid is veterinarian only. Consultation has confirmed that while there are some physiological differences between equids which may require different treatment during castration, the differences do not mean non-veterinarians should perform the procedure.
Expected impact of proposed regulation
This proposal does not change current standards, with the exception of zebra and other wild equids which would, if castration was necessary, be castrated by veterinarians in zoos. Some submitters expected costs to increase as a result of the proposal but this is unlikely to occur give the obligations are not changing. Clarity of the obligations is expected to improve welfare of equids, especially for owners of donkeys and mules as feedback from owners suggested they were unsure whether a veterinarian was required to perform castrations.

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2. Equids – prohibition on blistering, firing, soring, and nicking	
Background and issues	Blistering, firing and nicking is prohibited under section 21(2)(b) of the Act but this section will be repealed when the new criteria for a significant surgical procedure comes into force in 2020. The intention of the proposal is to continue the existing prohibition in the Act on blistering, firing and nicking and extend the prohibition to include thermal cautery and mechanical soring.
Proposal consulted on (no. 22 in discussion document)	It is prohibited to perform blistering, firing, mechanical soring or nicking of a horse or other equid. The owner or person in charge of the animal, must not allow blistering, firing, mechanical soring or nicking of a horse. If consultation shows that the procedures are no longer relevant in New Zealand and have little chance of re-establishing, then a regulation may not be progressed. *Definitions* *Blistering and firing: procedures which involve the application of chemical, or thermal cautery (hot or cold) to the legs of the horse to create tissue damage to, or an inflammatory reaction on, its legs.* *Nicking: the cutting of the skin or ligaments of the tail of the horse to make it carry its tail in a raised position.* *Mechanical soring: means the application of devices including chains and weighted platforms, to the hooves or legs of a horse, for the purpose of distorting the natural gait of the horse.* *Equid: any member of the equidae family, including any horse, pony, donkey, mule, other wild ass, zebra, and any of their hybrids.*
Submitters' views on proposal	There was strong support in the submissions for prohibiting these procedures.
Final proposal (post consultation)	1. A person must not perform any of the following procedures on any equid: a. blistering; b. firing; c. mechanical soring; or d. nicking. 2. The owner or person in charge of the animal, must not allow blistering, firing, mechanical soring or nicking of a horse. *'Blistering' and 'firing' are procedures which involve the application of chemical, or thermal cautery (hot or cold) to the legs of the horse to create tissue damage to or an inflammatory reaction on, its legs.* *'Mechanical soring' is the application of devices including chains and weighted platforms, to the hooves or legs of a horse, for the purpose of distorting the natural gait of the horse. It does not include the use of toe weights.* *'Nicking' is the cutting of the skin or ligaments of the tail of the horse to make it carry its tail in a raised position.* *'Equid' means any member of the equidae family, including any horse, pony, donkey, mule, other wild ass, zebra, and any of their hybrids.*
Proposed penalty	Category D (prosecutable regulatory offence which may result in a criminal conviction). A maximum $5,000 fine for an individual or maximum $25,000 fine for a body corporate may apply to a person or body corporate who performs blistering, firing, mechanical soring, or nicking on a horse or other equid.

Proactively Released

Option assessment (not regulate or regulate)	
Table	

Option	Effective	Efficient	Clear	Equitable
1	x	—	x	—
2	✓✓	—	✓✓	—

Analysis of options against criteria

Option 1 – Do not regulate a prohibition on blistering, firing, soring and nicking of equids

If these practices are not expressly prohibited, there may be no effective way to penalise those who undertake the procedures, and it may not be clear that performing the procedures are prohibited and have negative animal welfare outcomes.

Option 2: Regulate a prohibition on blistering, firing, soring and nicking of equids

Regulating a prohibition on blistering, firing and nicking of equids will have the effect of continuing the existing prohibition, and extend this prohibition to the similar practice of soring. Extending the regulation to cover all equids, rather than just horses, will also provide clarity for owners and people in charge of animals that this prohibition applies to all equids.

Rationale for preferred option

Blistering, firing and soring are undertaken to inflict pain in order to force horses to alter their gait in an exaggerated way. Nicking is undertaken to force horses to alter how they carry their tails for cosmetic reasons.

Studies have found that there is no compelling evidence that these procedures are effective therapies that benefit the horse or justify the harm inherent in them.[46]

Mechanical soring was identified as an additional procedure for possible prohibition during the 2016 consultation. It involves deliberately inflicting pain in a horse to exaggerate leg motion.[47] The techniques result in painful, inflamed tissues in the feet.

While the extent of the procedures occurring in New Zealand is not known, feedback suggests there may be some practice still occurring in New Zealand. Regulation will ensure that in 2020 when prohibitions are removed from the Act, there is an effective way to penalise those who undertake the procedures and it is clear that performing them continues to be an offence. In addition, regulation will clarify that mechanical soring, a procedure not covered in the Act, will also be prohibited.

Expected impact of proposed regulation

Any impact from this regulation is likely to be negligible. Almost all submitters on the proposal noted that the regulation would not present any new costs to them as they do not carry out the procedures. The positive impact of the regulation on animal welfare is also likely to be negligible given limited known occurrence of the procedures in New Zealand.

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[46] Hayward, M and D Adams, (2001), The firing of horses: a review of the animal welfare advisory committee of the Australian Veterinary Association. Date of access 5 September 2019.

[47] American Veterinary Medical Association, (2012) Scoring in horses. Date of access 5 September 2019.

3. Equids – restrictions on tail docking

Background and issues	Horse tail docking was traditionally performed to prevent the tail of the horse from interfering with harness and carriage equipment. There are no benefits for horses from the procedure. Horse and other equid tail docking has been shown to be a painful procedure. Horses exhibit physiological and behavioural signs of post-operative pain.[48] Docking the tail of a horse is currently defined as a restricted surgical procedure under section 2(1) of the Act, and may only be undertaken by a veterinarian. This section will be repealed when the new criteria for a significant surgical procedure comes into force in 2020.
Proposal consulted on (no. 28 in discussion document)	A person must not dock the tail of a horse. The owner of, and every person in charge of a horse must not allow a horse to be docked. *Note* – A veterinarian may perform the procedure for therapeutic reasons and pain relief must be used. Under the regulations therapeutic purposes means for the purpose of responding to an existing disease or injury. Horse means any equid, including horse, pony, zebra or donkey or any of their hybrids.
Submitters' views on proposal	The proposal was supported in submissions.
Final proposal (post consultation)	1. A person must not dock the tail of an equid. 2. The owner and every person in charge of an equid must not allow its tail to be docked. 3. A veterinarian may perform the procedure for therapeutic reasons and pain relief must be used. *'Equid' means any member of the equidae family, including any horse, pony, donkey, mule, other wild ass, zebra, and any of their hybrids*
Proposed penalty	Category C (prosecutable regulatory offence which may result in a criminal conviction). A maximum $3,000 fine for an individual or maximum $15,000 fine for a body corporate may apply for docking an equid's tail, or for a veterinarian who docks an equid's tail for non-therapeutic reasons, or for a veterinarian who fails to use pain relief when docking an equid's tail for therapeutic reasons.
Option assessment (not regulate or regulate)	
Table	

Option	Effective	Efficient	Clear	Equitable
1	x	—	x	—
2	✓✓	—	✓✓	—

Analysis of options against criteria

Option 1 – Do not regulate equid tail docking

If the restriction on equid tail docking is not regulated, it would not be clear that this procedure is generally prohibited and may only be performed by a veterinarian for therapeutic reasons. This means that when the current restriction is revoked it may appear that the procedure is now permitted for reasons other than therapeutic.

Option 2 – Regulate equid tail docking

Regulating to restrict equid tail docking will ensure it is clear that tail docking may only be performed by a veterinarian for therapeutic reasons when the current restriction on horse tail docking is repealed in May 2020. Extending the regulation to apply to all equids will provide clarity that the animal welfare considerations that currently apply to horses apply to all equids.

Proactively Released

[48] Lefebvre D, D Lips, FO Odberg and JM Giffroy, (2007), Tail docking in horses: a review of the issues, *Animal*, 1(8): 1167-78

Rationale for preferred option
The proposed regulation will make it clear that horse tail docking is a veterinarian-only procedure that may only be performed for therapeutic reasons.
Expected impact of proposed regulation
The impact of the regulation on owners and managers of equids is likely to be negligible as the procedure is currently a restricted procedure under the Act and MPI is not aware of any compliance issues.

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4. Equids – restrictions on rectal examination for any purpose[49]	
Background and issues	A rectal examination is a diagnostic procedure that may be used as part of a clinical examination for conditions such as colic and pregnancy. The procedure carries a high risk of tissue tearing during the procedure[50] and should only be performed when there is a clear clinical reason for performing a rectal examination and when the animal is a suitable candidate for the procedure.[51] An equid's rectum is more prone to injury or trauma than other animals. An examination can perforate an equid's rectum which can lead to peritonitis and death. Veterinary experience is needed to ensure that any problems that do arise can be responded to appropriately and efficiently. Subsequent to Cabinet's agreement on the policies, MPI was made aware that restricting rectal examinations on equids for the purpose of non-surgical reproductive procedures would impact a small number of stakeholders. These stakeholders are currently performing the entire non-surgical reproductive procedure including the rectal examination. MPI has re-considered the regulation with regards to the welfare of the animals during the rectal examination. There is little to no research that suggests rectal examinations are more likely to result in a rectal tear when being performed by competent non-veterinarians. MPI has not received any evidence of negative animal welfare outcomes in the current state being caused by competent non-veterinarians performing the examinations. The stakeholders affected have also indicated that it would be too costly to get a veterinarian to perform all the rectal examinations as part of the procedure and that their business would become unviable if this regulation came into effect.
Proposal consulted on (no. 29 in discussion document)	Rectal examinations on horses for any purpose, including pregnancy diagnosis, must be performed by a veterinarian or a veterinarian student under direct supervision of a veterinarian. The proposed restriction includes entry into the rectum by the fingers/hand/arm, and/or the introduction of instruments, excluding rectal thermometers, for any purpose. Horse means any equid, including horse, pony, zebra, or donkey or any of their hybrids.
Submitters' views on proposal	The original proposal was supported during initial consultation. Targeted engagement was undertaken on the proposed amendment, and submissions on the new proposal have indicated that a small number of stakeholders do not support the change.
Approved regulatory policy	1. Rectal examinations on equids must be performed by a veterinarian. 2. The owner or person in charge of the animal has responsibility to ensure that only a veterinarian performs this procedure. *'Rectal examination' includes entry into the rectum by the fingers/hand/arm, and/or the introduction of instruments, excluding rectal thermometers.* *'Equid' means any member of the equidae family, including any horse, pony, donkey, mule, other wild ass, zebra, and any of their hybrids*
Proposed regulatory policy with amendment 1a and 1b	1. Performing a rectal examination on an equid will be veterinarian only unless the person undertaking the examination is competent and is carrying out the examination: a) for the purpose of non-surgical reproductive procedures; or b) to determine if the animal is pregnant. 2. The owner or person in charge of the animal has responsibility to ensure that this procedure is performed in accordance with one above.

[49] This regulatory policy has been revised according to a Cabinet decision in July 2020.

[50] OM Rostits, CC Gray, KW Hinchcliff and PD Constable (eds) 10th edition, (2006) Veterinary Medicine: A textbook of the diseases of cattle, sheep, goats, pigs and horse.

[51] *Ibid.*

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	'Non-surgical reproductive procedures' include transcervical insemination, cervical insemination and embryo transfer through transcervical methods. *'Rectal examination' includes entry into the rectum by the fingers/hand/arm, and/or the introduction of instruments, excluding rectal thermometers.* *'Equid' means any member of the equidae family, including any horse, pony, donkey, mule, other wild ass, zebra, and any of their hybrids*
Proposed penalty	Category C (prosecutable regulatory offence which may result in a criminal conviction). A maximum $3,000 fine for an individual or maximum $15,000 fine for a body corporate may apply for a person who is not a veterinarian performing a rectal examination on an equid.

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5. Dogs, horses, ponies, donkeys, cattle – restrictions on freeze branding	
Background and issues	Freeze branding is generally performed for identification or management purposes. The procedure destroys the colour of the hair follicle, resulting in the hair growing back white, which creates a brand that is visible from a distance. In lighter coloured animals, the brand can be held onto the skin for a longer period to create a scar which completely prevents the hair from growing back. Freeze branding is most commonly used on horses, cattle, and dogs, with varying levels of pain relief used. It is very occasionally used by organisations such as the Department of Conservation (DOC) to identify wild animals from a distance. Freeze branding is commonly performed by veterinarians, competent non-veterinarians (such as contract branders), and in some cases by owners (including farmers). It is uncertain whether freeze branding would meet the criteria for a significant surgical procedure. It has been shown that freeze branding is likely to be less painful than hot branding in cattle, but it is likely to be more painful than microchip insertion. Regulation is required to provide clarity about who can perform the procedure and under what circumstances.
Proposal consulted on (no. 18 in discussion document)	A competent person may freeze brand an animal. The owner or person in charge of the animal has responsibility to ensure that only competent people perform this procedure.
Submitters' views on proposal	Submissions were split on the proposal. Those who supported it were generally involved with livestock or hunting dogs, and thought that it accurately captured the current practice for freeze branding. Those who opposed the proposal considered freeze branding to be an unnecessary and painful procedure, which could be replaced with other identification methods such as microchipping. A majority of submitters thought that a competent non-veterinarian could carry out freeze branding, but many also thought that some form of pain relief should be required. The horse racing industry supported not having a pain relief requirement, however noted that they were moving to microchipping and wanted a 'grandfathering' process to allow freeze branding to continue for several years until they had completed this process. Advocacy groups and veterinarian organisations generally opposed the procedure on the basis there are viable alternatives, including microchipping. Advocacy groups were split about whether a competent person could perform the procedure (with pain relief) or whether (if not prohibited), it should be a veterinarian-only procedure. NAWAC submitted that post-operative pain relief should be required for all freeze branding procedures as the pain associated with freeze branding occurs over several days. NAWAC also submitted that this procedure is likely to be more traumatic for dogs and should be a veterinarian-only procedure. In cattle and horses, it may be appropriate for the procedure to be carried out by a competent person.
Final proposal (post consultation)	*Freeze branding dogs* 1. A person who freeze brands a dog must: a. be competent; and b. use pain relief, authorised by a veterinarian for the purpose of the procedure, throughout the procedure. *Freeze branding cattle, horses, ponies, donkeys, and hybrids of horse, ponies, or donkeys* 2. A person who freeze brands a cattle beast, horse, pony, donkey, or a hybrid of a horse, pony, or donkey, must be competent. *The owner or person in charge is liable* 3. The owner or person in charge of an animal must not allow it to be freeze branded except in accordance with any of the clauses above.

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Proposed penalty	*Failing to use pain relief when freeze branding a dog* Category C (prosecutable regulatory offence which may result in a criminal conviction). A maximum $3,000 fine for an individual or maximum $15,000 fine for a body corporate may apply for failing to use pain relief when freeze branding a dog.

Option assessment (not regulate or regulate)

Table

Option	Effective	Efficient	Clear	Equitable
1	x	x	x x	—
2	✓	—	✓✓	✓

Analysis of options against criteria

Option 1 – Do not regulate for restrictions on freeze branding

This option would not be effective as it would not provide a legal basis for competent non-veterinarians to continue to freeze brand certain animals. If not regulated, it would be arguable that freeze branding should be a veterinarian-only procedure, which would be inefficient for animal owners because it would be costly and impractical to require veterinarians to carry out the procedure. Because freeze branding is currently undertaken by non-veterinarians, in May 2020 there may be confusion about whether non-veterinarians are able to continue to lawfully carry out the procedure.

Only offences and penalties under the Act would be applicable to serious animal welfare offending such as offending that results in severe harm to an animal or animals.

Option 2 – Regulate for restrictions on freeze branding (preferred)

This option would be effective in addressing legal ambiguity by providing a legal basis to allow a non-veterinarian to continue to perform freeze branding on certain animals. It will be reasonably effective for animal welfare, because freeze branding will only be permitted on some animals, and will require pain relief for dogs. Regulating the procedure will be more costly for a few dog owners who are not currently using pain relief when freeze branding their dogs. It will be more cost efficient for other animal owners who will not have to engage a veterinarian or use pain relief for the procedure.

Regulatory penalties will be able to be set for breach of the pain relief requirement for dogs, which are consistent with penalties for breach of other regulations, where comparable, and be clear and enforceable.

Rationale for preferred option

Requiring pain relief for freeze branding of dogs

During the 2019 consultation there was a strong push from non-industry submitters to provide pain relief for freeze branding, especially for dogs. Dogs that are involved in pig hunting are sometimes freeze branded to be easily identifiable from a distance. This is required in a small number of DOC forest blocks to prove that the dog has completed 'Bird Safe' training. It was also noted by NAWAC that the procedure is likely to be more traumatic for dogs due to the size of the brand relative to the animal, and the dog's muscular and lean body condition.

Anecdotally, MPI understands it is becoming more common for pig hunting associations to hold branding days, where members bring their dogs along to be branded by a competent non-veterinarian. It is common for a veterinarian to be present at these events to administer sedation and pain relief, and to monitor the dogs.

MPI therefore considers it both feasible and practical to require pain relief, while allowing competent non-veterinarians to continue performing the procedure.

Not requiring pain relief for horses, ponies, donkeys and cattle

It is not routine for pain relief to be provided when freeze branding horses, ponies, donkeys and cattle. It is also not required in any minimum standard for these species.

Anecdotally, MPI understands that some people consider that the procedure is not painful for these animals if performed correctly. However, some scientific evidence indicates that it is more painful than sham branding.[52]

[52] Schwartzkopf-Genswein K.S., & Stookey, J.M. (1997). The use of infrared thermography to assess inflammation associated with hot-iron and freeze branding in cattle. *Canadian Journal of Animal Science*. 77, 577-583.

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MPI considers it impractical to require pain relief for the procedure for these animals at this stage, but notes it should be revisited in the future. Given the development of less invasive alternatives, the validity of the freeze branding (as well as hot branding) should also be revisited.
Expected impact of proposed regulation
The proposal will have positive animal welfare outcomes for dogs where pain relief has not previously been used. There will be little to no impact for the other species. Where dog owners have previously not used pain relief or a veterinarian to freeze brand their dog, there will be an increased cost. However, it appears that most associations are voluntarily moving toward this norm, so the impact is expected to be minimal.

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6. All animals – prohibitions and restrictions on hot branding	
Background and issues	Hot branding is generally performed for identification or management purposes. Typically, hot branding causes a scar on the skin, which prevents the hair from growing back. The result is a brand that can be visible from a distance, making identification easier. It is explicitly required by some horse and donkey breed societies before the animal can be registered for showing or breeding. Hot branding has been shown to be more painful than microchipping, and is likely to be more painful than freeze branding.[53,54] Under the Horses and Donkeys Code of Welfare, recommended best practice for identification is that hot branding should not be used. However, the procedure is routinely performed by non-veterinarians without the use of pain relief. Some owners use alternatives to approved pain relief when hot branding horses, including herbal medicines (such as valerian), or a twitch to restrain the horse.
Proposal consulted on (no. 27 in discussion document)	A person must not hot brand an animal. The owner and every person in charge of an animal, must not allow the animal to be hot branded.
Submitters' views on proposal	In 2016 MPI proposed prohibition of hot branding for all animals because it has been shown to be more painful than other forms of identification which are readily available (such as ear tagging and microchipping). This was supported by the majority of submitters. Submitters expressed varying views in the context of the 2019 consultation. Pony and donkey breed societies wanted to allow hot branding for their animals on the basis other options (freeze branding and microchipping) were less practical or less cost-effective. Donkey owners argued that donkeys are completely different animals and do not feel pain the same way as horses. Horse breed societies were strongly opposed to the proposal for various reasons, including those based on scientific research which related to other animals such as cattle (not horses). They argued hot branding is less painful than freeze branding. Most submitters believed a competent non-veterinarian could perform the procedure, and that veterinary pain relief was not necessary. Equid societies submitted that there would be large impacts on their breeds if hot branding was prohibited. These included: animals being stolen; important bloodlines being lost due to faulty microchips (and the animal therefore having no identifying brand); the prohibitive cost of microchipping which would result in animals being euthanised instead of being registered; and the inability to register foals because the brand is a required part of registration. Generally livestock industry organisations supported the proposal if freeze branding is allowed to continue. Advocacy groups and veterinary organisations supported the proposal to prohibit hot branding. NAWAC also supported the proposal due to the severe pain of the procedure being difficult to ameliorate in any animal. However, NAWAC noted the difficulties raised by horse breed societies and agreed that a sunset clause may be appropriate to give microchipping technology time to advance.
Final proposal (post consultation)	*Hot branding of horses, ponies, donkeys, and their hybrids* 1. A person who hot brands a horse, pony, donkey, or a hybrid of those animals must: a. be competent; and b. use pain relief authorised by a veterinarian for the purpose of the procedure. 2. The owner or person in charge of a horse must not allow it be hot branded except in accordance with the clauses above. 3. This proposed regulation will be revoked five years from the day it commences. At that point, the prohibition on hot branding will extend to horses, donkeys, and their hybrids. For clarity, this proposal does not apply to any other equids, other than those named.

53 Lindegaard C., Vaanbengaard D., Christophersen M.T., Ekstom C.T. and Fjeldbord, J. (2009). Evaluation of pain and inflammation associated with hot iron branding and microchip transponder injection in horses. American Journal of Veterinary Research 70, 840-847.

54 Schwartzkopf-Genswein K.S., & Stookey, J.M. (1997) The use of infrared thermography to assess inflammation associated with hot-iron and freeze branding in cattle. Canadian Journal of Animal Science. 77, 577-583.

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	Hot branding for all other animals 1. A person must not brand any animal (apart from those mentioned above). 2. The owner or person in charge of an animal must not allow the animal to be hot branded This clause will be amended five years from the day it commences to extend to all animals.
Proposed penalty	Category C (prosecutable regulatory offence which may result in a criminal conviction). A maximum $3,000 fine for an individual or maximum $15,000 fine for a body corporate may apply for a person who hot brands a horse, pony, donkey, or one of their hybrids, without pain relief. Category D (prosecutable regulatory offence which may result in a criminal conviction). A maximum $5,000 fine for an individual or maximum $25,000 fine for a body corporate may apply where hot branding is undertaken on an animal in breach of the restrictions on hot branding.
Option assessment (not regulate or regulate)	
Table	

Option	Effective	Efficient	Clear	Equitable
1	x	x	x	—
2	✓✓	✓	✓✓	✓

Analysis of options against criteria

Option 1 – Do not regulate for prohibitions and restrictions on hot branding

This option would not be effective as it would not provide a legal basis for competent non-veterinarians to continue to hot brand certain animals. It would be inefficient for animal owners because it would be costly and impractical to require veterinarians to carry out the procedure. Because hot branding is currently undertaken by non-veterinarians, in May 2020 there may be confusion about whether non-veterinarians would be able to continue to lawfully undertake the procedure.

Only offences and penalties under the Act would be applicable to serious animal welfare offending such as offending that results in severe harm to an animal or animals.

Option 2 – Regulate for prohibitions and restrictions on hot branding (preferred)

This option would be effective in addressing legal ambiguity by providing a legal basis to allow a non-veterinarian to continue to perform hot branding on some animals. It will be effective for animal welfare, because hot branding will only be permitted on some animals with pain relief, and prohibited on all other animals. Regulating will provide clear rules and standards about who can undertake hot branding, on which animals, and to require pain relief.

Regulating the procedure will be more cost effective than not regulating (as competent people can continue to hot brand without engaging a veterinarian to undertake the procedure).

Regulatory penalties will be able to be set which are consistent with penalties for breach of other regulations, where comparable, and be clear and enforceable.

Rationale for preferred option

It is likely that hot branding will meet the criteria of a significant surgical procedure and therefore without regulations specifying otherwise, it would become a veterinarian-only procedure.

Allowing hot branding for horses, donkeys, and their hybrids

Both hot branding and freeze branding have been proven to be painful in cattle and horses. While it is common for donkeys to show fewer reactions to pain than other equids, this is considered to be because they are more stoic; there is no evidence that they have a higher pain tolerance to other equids.[55]

MPI proposes allowing hot branding with pain relief to continue for horses and donkeys (and their hybrids) for a limited period of five years. It is expected that advances in microchipping technology in the next few years will make it a more practical and preferable identification technique.

Providing for the hot branding regulation to cease in five years (a 'sunset clause') will allow horse and donkey societies time to become familiar with microchipping technology, for financial planning, and to amend breed society rules and regulations.

[55] Burden F., Thiemann A. Donkeys Are Different. (2015). *Journal of Equine Veterinary Science*. 35, 376-382.

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Pain relief Pain relief, in the form of veterinary medicine, is not commonly used by people who hot brand their animals even though it is required in the minimum standard for hot branding in the Horses and Donkeys Code of Welfare. Scientific evidence shows the procedure is painful and that some veterinary oversight is appropriate. MPI therefore proposes regulating for veterinary pain relief to be used, to reflect the current minimum standard in the Horses and Donkeys Code of Welfare. Pain relief will be required, however the time at which it is administered will be at the discretion of the authorising veterinarian (during or after the procedure, or both). Because the procedure itself is short lived, the main period where pain is felt is post-operatively, and therefore post-operative analgesics may be more appropriate than only administering pain relief at the time of the procedure.[56]
Expected impact of proposed regulation
Animal impacts There should be an overall improvement in animal welfare for animals which are traditionally hot branded, where it will no longer be allowed. For horses, donkeys, and their hybrids, the proposed regulation will provide improved animal welfare by explicitly requiring pain relief authorised by a veterinarian. *Owner or person in charge impacts* People performing hot branding will need to continue to engage a veterinarian to obtain the necessary pain relief. A veterinarian consultation fee is generally around $120. Owners could work with their veterinarians on the most effective process to access pain relief for all foals born in a year. The Royal Agricultural Society (the Society) has also noted that it hosts microchipping and DNA-testing events at Agricultural and Pastoral shows where a veterinarian is available to perform the microchipping on thoroughbred horses. The Society has indicated that these microchipping events could be widened to allow other breeds such as horses or donkeys to attend for microchipping. There will be cost impacts for horse and donkey owners who are not currently complying with minimum standards in terms of providing veterinarian-approved pain relief when hot branding their animals. In terms of microchipping as an alternative method of identification, one submitter noted microchipping costs $120 for a veterinarian to implant a $10 chip (more if the veterinarian had to be called out to the property). Microchip readers would also be required which cost approximately $800 - $900, which may be cost-prohibitive for some societies.

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[56] Erber R. et al. (2012).

7. Dogs – prohibition on ear cropping

Background and issues	Dog ear cropping is currently prohibited under section 21(2)(a) of the Act, but this section will be repealed when the new criteria for a significant surgical procedure comes into force in 2020. The repeal could cause ambiguity and be interpreted to mean that dog ear cropping is no longer prohibited. Dog ear cropping is performed non-therapeutically, generally for cosmetic reasons. The procedure causes acute pain.[57] Ears are reduced with blades or scissors to modify their shape and in some cases allow a naturally dropping ear to stand upright. In larger breeds, after surgery the ears are positioned with tape, bandages, or other devices to encourage an upright position. General anaesthesia is required along with postoperative care.[58]
Proposal consulted on (no. 34 in discussion document)	A person must not crop a dog's ears. The owner of, and every person in charge of a dog, must not allow a dog's ears to be cropped. Note: A veterinarian may perform the procedure for therapeutic reasons. Pain relief must be used.
Submitters' views on proposal	The proposal was supported by submitters.
Final proposal (post consultation)	1. A person must not crop a dog's ears. 2. The owner or person in charge of a dog must not allow its ears to be cropped. *For this proposal, 'crop' means the performance on the ears of a dog of a surgical procedure to alter the appearance of the ears for cosmetic reasons, and in some cases, make the ears stand up.*
Proposed penalty	Category D (prosecutable regulatory offence which may result in a criminal conviction). A maximum $5,000 fine for an individual or maximum $25,000 fine for a body corporate may apply for cropping a dog's ears.

Option assessment (not regulate or regulate)

Table

Option	Effective	Efficient	Clear	Equitable
1	x	—	x	—
2	✓	—	✓✓	—

Analysis of options against criteria

Option 1 – Do not regulate to prohibit ear cropping in dogs

If ear cropping in dogs is not prohibited by regulation, it may appear that the procedure is permitted when the prohibition is repealed in May 2020. This is not effective for animal welfare and is not clear.

Option 2 – Regulate to prohibit ear cropping in dogs (preferred)

Prohibiting ear cropping in dogs through regulation will provide clarity that this procedure continues to be prohibited when the current prohibition is repealed in May 2020. As the procedure has the potential to cause significant pain or distress and there is no therapeutic benefit, prohibiting it through regulation will maintain animal welfare.

Rationale for preferred option

Regulation is needed to maintain the status quo, to make it clear that the current prohibition remains. In response to submissions, clarification was made to the definition of 'ear cropping' to allow a veterinarian to remove part of a dog's ear for therapeutic reasons.

Expected impact of proposed regulation

The proposal reflects the status quo and therefore is likely to have minimal or no impact.

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[57] American Veterinary Medical Association, Journal of the American Veterinary Medical Association, 1990; 196: 679-680, Welfare implications of Ear Cropping Dogs

[58] Ibid.

Proactively Released

8. Cattle – restrictions on teat occlusion

Background and issues	Teat sealants are commonly used for teat occlusion (the permanent blocking of a teat canal) in the dairy cattle industry as part of drying off management (to dry off the udder), or as part of a treatment plan for infected or injured teats. Teat sealants are also used in showing animals, to make the udder look fuller. Any physical process that leads to the permanent blocking of a teat canal can result in significant pain. Even when used temporarily, an inappropriate sealant can cause pain and distress when removed.[59]
Proposal consulted on (no. 30 in discussion document)	A person must not occlude a cattle beast's teat unless the teat is occluded by a teat sealant registered under the Agricultural Compounds and Veterinary Medicines Act 1997. The owner, and every person in charge of a cattle beast must not allow its teat to be occluded.
Submitters' views on proposal	Submitters noted that veterinarians may have legitimate reasons to use a teat plug when treating an injured or diseased teat.
Final proposal (post consultation)	1. A person who occludes a cattle beast's teat must use a teat sealant that is registered under the Agricultural Compounds and Veterinary Medicines (ACVM) Act. 2. A veterinarian may temporarily occlude a teat with a teat plug, for therapeutic purposes. 3. The owner or person in charge of a cattle beast must not allow its teat to be occluded except in accordance with the clauses above.
Proposed penalty	Category C (prosecutable regulatory offence which may result in a criminal conviction). A maximum $3,000 fine for an individual or maximum $15,000 fine for a body corporate may apply for failing to use a registered ACVM Act teat sealant, or if a veterinarian uses a teat plug for reasons other than therapeutic purposes.

Option assessment (not regulate or regulate)

Table

Option	Effective	Efficient	Clear	Equitable
1	x	—	x	—
2	✓✓	—	✓✓	✓

Analysis of options against criteria

Option 1 – Do not regulate to restrict teat occlusion in cattle

If restrictions on teat occlusion in cattle are not regulated for, non-veterinarians would be able to continue to undertake cattle teat occlusions, as the procedure is unlikely meet the significant surgical procedure criteria. However, it would be unclear which methods should be used for teat occlusion, leading to the use of inappropriate and painful methods. This would have negative animal welfare outcomes. Any animal welfare offending associated with teat occlusion would only be able to be prosecuted under the Act, which may be disproportionate to the nature of the offending (same as it is currently).

Option 2 – Regulate to restrict teat occlusion in cattle (preferred)

Regulating to restrict methods for teat occlusion to those which are appropriate will contribute to good animal welfare outcomes. It will also provide clarity as to what acts and omissions would constitute a breach of the restrictions, which will help people comply with their obligations under the Act and also contribute to good animal welfare outcomes. Regulatory penalties will be able to be set which are consistent with penalties for breach of other regulations, where comparable, and be clear and enforceable.

Rationale for preferred option

Sealing teats with a teat sealant registered under the ACVM Act is unlikely to meet the criteria for a significant surgical procedure, and neither is temporarily sealing a teat with a plug. However, there is anecdotal evidence of people using methods such as ringing or household superglue to occlude teats, which can result in unnecessary and unreasonable pain.

[59] S Godden, P Rapnicki, S Stewart, J Fetrow, A Johnson, R Bey and R Farnsworth, Effectiveness of an internal teat seal in the prevention of new intramammary infections during the dry and early lactation periods in dairy cows when used with a dry cow intramammary antibiotic, Journal of Dairy Science, 86: 3899-3911.

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Regulation is needed to make it clear that using a sealant registered under the ACVM Act is the only acceptable method for non-veterinarians to seal teats. The proposal also allows veterinarians to use teat plugs when treating an injured or diseased teat.
Expected impact of proposed regulation
There should be an overall improvement in animal welfare by making it clear that only sealants registered under the ACVM Act are acceptable for teat occlusion. There should be only negligible impacts on farm owners, operators and managers, as most people should already be following good practice.

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Appendix Three – Proposed changes not directly related to a specific surgical procedure

Introduction

For each regulatory proposal, the tables in this Appendix set out:

a. Background and issues giving rise to the proposal

b. Proposal consulted on in the 2019 discussion document (if applicable)

c. Summary of submitters' views on the regulatory proposal (if applicable)

d. Final proposal

e. Proposed penalty (if applicable)

f. Options assessment of the two options: do not regulate or regulate (including preferred option);

g. Rationale for preferred option

h. Expected impact of the proposed regulation.

Key for options analysis tables

Each proposal is assessed against criteria using the symbols in the chart below.

x x	x	✓	✓✓	—
Much worse than not regulating	Worse than not regulating	Better than not regulating	Much better than not regulating	About the same as doing nothing

List of proposals

Changes to the Animal Welfare (Care and Procedures) Regulations 2018

1. Amend regulation 48 (Use of electric prodders) to reduce the weight limit of pigs on which electric prodders can be used
2. Amend the definition of electric prodder
3. Include a definition of layer hens
4. Amend the definition of pain relief

Other proposed regulatory changes

5. All animals – disapply regulations to research, testing and teaching procedures carried out as part of an Animal Ethics Committee approved project under Part 6 of the Act
6. Fine for Non-compliance with compliance notice

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1. Amend regulation 48 (Use of electric prodders) in the Animal Welfare (Care and Procedures) Regulations 2018 to reduce the weight limit of pigs on which electric prodders can be used. This reduced limit would only apply when pigs are in the single file area directly before, and leading into, a restrained stunning box at a slaughter premise.	
Background and issues	The use of electric prodders is controversial as they can cause pain and distress. However, electric prodders are an important tool and an acceptable level of animal welfare can be maintained if their use is in within an acceptable range.[60] Electric prodder use is therefore allowed but restricted under the Animal Welfare (Care and Procedures) Regulations 2018 (the 2018 Regulations). Under the 2018 Regulations, electric prodders may only be used on cattle, pigs and deer in limited circumstances and according to certain requirements. For pigs, electric prodders may be used when loading a stunning pen at a slaughter premise on pigs which weigh over 150 kilograms. This weight limit was based on practices and traditional slaughter methods at the time the regulations came into force. Since the 2018 Regulations were consulted on in 2016, a new restrained slaughter system has been adopted in some pig processors. The new system has improved pig welfare overall, however, it has also resulted in the need to use electric prodders on smaller pigs in limited circumstances. The system restrains pigs prior to being stunned. Pigs are diverted into a single-file race and loaded into the stunning box by a pneumatic pusher. On rare occasions electric prodders need to be used to ensure pig movement through the enclosed part of the single file race. Operators have little access to the pigs at this point and the alternatives are either: reaching into the race (which will put the safety of the handler at risk); or releasing the pig through a side door and slaughtering it at the side of race (which would be more stressful for the pig and the handler).
Proposal consulted on (no. 6 in discussion document)	The current regulation provides that prodders may only be used on pigs that weigh over 150 kilograms in limited circumstances. It is proposed that the use of electric prodders on pigs, in transition from lairage (a place where animals are rested prior to being processed) to a restrained stunning box be allowed on smaller pigs than in the current regulation. It is proposed that the weight be set between 70 and 150 kilograms. MPI is seeking feedback on what the weight limit should be.
Submitters' views on proposal	In the context of the 2019 consultation, industry representatives commented on the new management systems to improve animal welfare, and how electric prodders were required to move pigs along the single file race from an operator health and safety perspective, necessitating a drop in the weight limit to 70 kilograms. Most submitters (including advocacy groups) disagreed with the proposal because they disagree with the use of electric prodders in general. Some advocacy groups expressed dissatisfaction with MPI amending the rules for commercial reasons (e.g. for two slaughterhouses) and preferred the 150 kilogram limit be retained. Some advocates suggested alternatives to electric prodders be considered.
Final proposal (post consultation)	Amend regulation 48 (Use of electric prodders) of the 2018 Regulations to include an allowance to use electric prodders on pigs over 70 kilograms in the single file area directly before, and leading into, a restrained stunning box at any slaughter premise.
Proposed penalty	Category B (infringement offence which does not result in a criminal conviction). A $500 fee or a maximum $1,500 fine if imposed by the Court may apply when an electric prodder is used on a pig in breach of this regulatory proposal. Where the offending is by a body corporate and involves a large number of animals enforcement agencies may choose to file a charging document instead of issuing an infringement notice. For this proposal the maximum fine the court can impose on a body corporate is $7,500.

[60] Grandin, T. (1997) Good management practices for animal handling and stunning. Am. Meat Inst., Washington, DC.

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Option assessment (not regulate or regulate)	
Table	

Option	Effective	Efficient	Clear	Equitable
1	x	x	x	—
2	✓	✓✓	✓✓	—

Analysis of options against criteria

Option 1 – Do not regulate to reduce the weight limit for using electric prodders on pigs

Not regulating to allow electric prodders to be used on smaller pigs, in the limited circumstances proposed, may negatively impact the welfare of those animals (between 70 and 150 kilograms) that are difficult to move. This is because alternative methods to move the animal would need to be used which would be less effective, efficient and more stressful for the pig and the handler.

Option 2 – Regulate to reduce the weight limit for using electric prodders on pigs (preferred)

Regulating to lower the weight that electric prodders can be used on pigs, in limited circumstances (when they are in transition from lairage into the stunning box), will be effective and efficient because it will facilitate animals moving through the slaughter process as quickly as possible.

Rationale for preferred option

The proposal to reduce the weight of pigs for which electric prodders may be used is based on the following considerations:

- it is in the best interest of the animals to move through the slaughter process as quickly as possible, and pigs heavier than 70 kilograms are difficult for handlers to physically move in the race;
- the need to use an electric prodder on smaller pigs is only in limited circumstances where operators have limited access to the race; and
- alternatives such as using non-electrical devices (goads) or removing the pig from the race and slaughtering the animal at the side of the processing race would be more stressful for both the pig and the handlers.

In addition, MPI has worked with the processors to refine the new system to ensure any prodder use is restricted to a very small segment of the processing chain.

Expected impact of proposed regulation

There will be no or minimal impact on animal welfare outcomes. It is anticipated that the use of electric prodders on pigs in the limited circumstances proposed in this regulations will be rare (industry estimates use would be around one percent of pigs processed). There will be some efficiency gains (and therefore cost reduction) for the pig processor operators.

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2. Amend the definition of electric prodder in the Animal Welfare (Care and Procedures) Regulations 2018	
Background and issues	Police officers are regularly confronted with situations where animals need to be temporarily incapacitated or moved. This may be because they are impeding access to a property that the officers need to enter or are in a public place and need to be contained or moved for the protection of the public. In some circumstances, the use of an electrical device may be an alternative to shooting the animal. Officers are required to undergo annual training and gain certification in the use of electrical devices. This training includes instructions on when these devices can be used. Electric devices used by the New Zealand Police may arguably be captured by the definition of electric prodders in Regulation 48 (Use of electric prodders) of the Animal Welfare (Care and Procedures) Regulations 2018 (the 2018 Regulations) and therefore the provisions of regulation 48 would apply to Police officers using electric devices. Regulation 48 sets out restrictions on the use of an electric prodder on an animal, including when and where it can be used, animal weight limits and other restrictions.
Proposal consulted on (no. 6 in discussion document)	Changes are proposed to the definition of an electric prodder to clarify that the use of an electric device by New Zealand Police officers, for legitimate law enforcement activities, is excluded from the definition.
Submitters' views on proposal	There were a variety of views expressed, both on whether the current definition of an electric prodder in the regulations would apply to electric devices used by the New Zealand Police and on whether the Police should be able to use electric devices on animals. Advocacy groups opposed the use of electric prodders and devices on animals, while the veterinary community and other stakeholders supported the use of such devices when there is a risk to human life. Most animal advocates agreed with the use of electric devices by Police in emergency circumstances where humans or animals are in danger. SPCA disagreed and suggested alternatives. Some submitters suggested annual training to prevent abuse.
Final proposal (post consultation)	Amend regulation 48 (Use of electric prodders) of the 2018 Regulations to clarify that electrical devices used on animals by the New Zealand Police are excluded from the definition of an electric prodder.
Proposed penalty	Existing offences in the Act will be available for cases of the most serious animal welfare offending, such as offending that results in severe harm to an animal or animals.
Option assessment (not regulate or regulate)	
Table	

Option	Effective	Efficient	Clear	Equitable
1	x	—	x	—
2	✓✓	—	✓✓	—

Analysis of options against criteria

Option 1 – Do not regulate to exclude electrical devices used by the Police

Not regulating to clarify that electrical devices used by the New Zealand Police for legitimate law enforcement activities are excluded from the definition of an electric prodder would mean on-going ambiguity about whether police officers can legitimately use electric devices on animals in certain circumstances.

Option 2 – Regulate to exclude electrical devices used by the Police (preferred)

Regulating will make it clear that the requirements related to electric prodders do not apply to electrical devices used by the New Zealand Police for legitimate law enforcement activities.

Rationale for preferred option

The use of an electric device by the New Zealand Police is justified for legitimate law enforcement activities in circumstances where an animal is attacking or when an animal needs to be removed from a circumstance or location where it poses a risk to people. It is therefore appropriate to amend regulation 48 of the 2018 Regulations to clarify such use of an electrical device by the New Zealand Police is excluded from the definition of an electric prodder.

Expected impact of proposed regulation

There will be no impact on animal welfare outcomes or other impacts as the proposal reflects current practice.

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3. Include a definition of layer hens in the Animal Welfare (Care and Procedures) Regulations 2018	
Background and issues	During the development of the regulatory proposals it was identified that there is no definition for 'layer hen'. Regulations 21 and 22 of the Animal Welfare (Care and Procedures) Regulations 2018 (the 2018 Regulations) and the Layer Hens Code of Welfare 2018 are intended to apply to female chickens (*Gallus gallus domesticus*), including chicks of any age and pullets (young hens), kept primarily for laying eggs and not to other species. Without a definition of layer hen the 2018 Regulations and the Layer Hens Code of Welfare 2018 could be interpreted as applying to other species.
Proposal consulted on	Not applicable (not consulted on)
Submitters' views on proposal	Not applicable
Proposal	Include a definition of layer hen in the 2018 Regulations. The proposed inclusion is to clarify that existing regulations relating to layer hens, the phased prohibition on use of conventional cages (regulation 21) and induced moulting (regulation 22), only apply to female chickens (*Gallus gallus domesticus*), including chicks of any age and pullets, kept primarily for laying eggs, rather than other species (e.g. quail).
Option assessment (regulate or not regulate)	
Table	

Option	Effective	Efficient	Clear	Equitable
1	x	—	x x	—
2	✓✓	—	✓✓	—

Analysis of options against criteria	Option 1 – Do not include a definition of layer hen Not including a definition of layer hen would mean that there is a lack of clarity as to what birds are covered in the 2018 Regulations and the Layer Hens Code of Welfare. Option 2 – Include a definition of layer hen (preferred) Including a definition of layer hen will clarify that the 2018 Regulations and Layer Hens Code of Welfare apply to chicks, pullets, and layers, and not to other species of birds.
Rationale for preferred option	
This change addresses an omission in the 2018 Regulations, which were lifted from minimum standards in the Layer Hens Code of Welfare 2012. Once the 2018 Regulations are amended, the Layer Hens Code of Welfare will be re-issued, incorporating this amendment.	
Expected impact of proposed regulation	
No impact as proposal only for clarification.	

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4. Amend the definition of pain relief in the Animal Welfare (Care and Procedures) Regulations 2018	
Background and issues	The current definition of pain relief in the Animal Welfare (Care and Procedures) Regulations 2018 (the 2018 Regulations) is: *"any analgesic or local anaesthetic drugs (or both) administered with the aim of providing significant alleviation of pain"* The definition of pain relief does not include general anaesthetic as a form of pain relief. This means an animal receiving a general anaesthetic would also need to also be given local anaesthetic or analgesics (pain relief) to ensure compliance with any regulation requiring pain relief.
Proposal consulted on	Not applicable (not consulted on)
Submitters' views on proposal	Not applicable
Proposal	Widen the definition of pain relief in the interpretation section of the 2018 Regulations to include any anaesthetic, analgesic, and/or sedation.
Option assessment (not regulate or regulate)	
Table	

Option	Effective	Efficient	Clear	Equitable
1	x	x	x x	—
2	✓✓	✓	✓✓	—

Analysis of options against criteria	Option 1 – Do not regulate to change the definition of pain relief Not regulating to widen the definition of pain relief would mean that a person administering a general anaesthetic to an animal would still technically be required to give the animal a local anaesthetic or analgesics to ensure compliance, when these forms of pain relief may not be required to achieve good animal welfare outcomes. This would not be effective, efficient or clear. Option 2 – Regulate to change the definition of pain relief (preferred) Regulating to widen the definition of pain relief will correct an anomaly and enable veterinarians to use their judgement to prescribe the most appropriate form of pain relief for a procedure. This option will be effective for animal welfare, more efficient and clear.
Rationale for preferred option	
The proposed change contemplates the use by veterinarians of both local and general anaesthetic as well as sedation on animals, to enable veterinarians to use their judgement to prescribe the most appropriate form of pain relief for a procedure.	
Expected impact of proposed regulation	
This change will improve animal welfare, by increasing the range of pain relief options veterinarians can use.	

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5. All animals – disapply section 183B regulations to research, testing and teaching procedures carried out as part of an animal ethics committee approved project under Part 6 of the Act	
Background and issues	The Act provides that nothing in Parts 1 and 2 (the parts that set out the required care of and conduct towards animals) prevents animals being used in research, testing and teaching (RTT) in accordance with Part 6. The Act does not explicitly state that regulations for surgical and painful procedures do not apply to RTT.
Proposal consulted on (no. 4 in the 2019 discussion document)	Nothing in the regulations developed under section 183B (surgical and painful procedures) apply to RTT carried out as part of an animal ethics committee (AEC) approved project under Part 6 of the Act. This includes both the Animal Welfare (Care and Procedures) Regulations 2018 and the regulatory proposals in this document. MPI does not propose to extend this exclusion to the procedures listed below: • Regulation 50 – Prohibit docking cattle beasts' tails (already in force); • Regulation 51 – Prohibit docking dogs' tails (already in force); • Regulation 59 – Prohibit mulesing sheep (already in force); • Proposal 22 – Prohibition on blistering, firing, mechanical soring, and nicking; • Proposal 27 – Prohibition on hot branding; • Proposal 34 – Prohibition on cropping dogs' ears. Note: This proposal does not affect the application of the RTT-specific proposals.
Submitters' views on proposal	The majority of submitters were supportive. There was full support to exempt the proposed prohibitions from the proposal.
Final proposal (post consultation)	1. Nothing in the regulations developed under section 183B (surgical and painful procedures regulations) of the Act apply to RTT carried out as part of a project approved by an AEC under Part 6 of the Act. This includes both the Animal Welfare (Care and Procedures) Regulations 2018 and the new regulatory proposals. 2. The prohibitions in the following regulations and proposed regulations still apply: a. Regulation 59 – Prohibition on mulesing sheep (already in force); b. Equids – prohibition on blistering, firing, soring, and nicking; c. All animals – prohibitions and restrictions on hot branding; and d. Dogs - prohibition on ear cropping.
Proposed penalty	If a prohibited procedure is carried out under an AEC-approved project, the penalty for breaching that prohibition will apply (for both the person who undertook the procedure, as well as the owner and person in charge of the animal who allows the procedure to take place). Act offences and penalties may also apply if a person does not gain AEC approval for their project, or if they do not comply with the parameters set out under the AEC-approved project and the animal's welfare is compromised.
Option assessment (not regulate or regulate)	
Table	

Option	Effective	Efficient	Clear	Equitable
1	x	—	x	—
2	✓✓	—	✓✓	—

Proactively Released

Analysis of options against criteria	**Option 1 – Do not regulate to clarify the relationship between surgical and painful procedures regulations and RTT** Not regulating to clarify the relationship between regulations under section 183B (surgical and painful procedures regulations) of the Act and RTT under Part 6 of the Act could result in ambiguity about the how the requirements set out within the regulations apply to RTT projects. **Option 2 – Regulate to clarify the relationship between surgical and painful procedures regulations and RTT (preferred)** Regulations will provide certainty to people carrying out AEC approved projects and clarify that in general, regulations developed under section 183B of the Act do not apply to RTT.
Rationale for preferred option	
The Act does not explicitly provide that regulations made under section 183B do not apply to Part 6. The change will make it clear that regulations (apart from the prohibitions and restrictions listed) do not affect an AEC's ability to approve a RTT project under Part 6 of the Act that may contradict the requirements in regulations.	
Expected impact of proposed regulation	
There will be minimal, if any, impacts for animals, people performing these procedures, and RTT industries, as the proposal largely reflects the status quo.	

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6. Fine for non-compliance with a compliance notice

Background and issues	The Act allows animal welfare inspectors to issue compliance notices. Compliance notices can require a person to stop doing something, or prohibit them from doing something, if they have good cause to suspect that something the person is doing contravenes or is likely to contravene the Act or any regulations made under it. A compliance notice may also be issued to require a person to do something that the inspector reasonably believes is necessary to ensure that the person complies with the Act or any regulations made under it. A regulatory prosecution offence and penalty is provided in section 156I of the Act for non-compliance with a compliance notice of a fine not exceeding $5,000 in the case of an individual and $25,000 in the case of a body corporate. An amendment to the Act, which comes into force in May 2020, provides for an infringement offence to be set by regulation for non-compliance with a compliance notice.
Proposal consulted on (no. 35 in the 2019 discussion document)	It is proposed that the fee for the infringement offence associated with non-compliance with a compliance notice (under section 156I (1) of the Act) be set at $500.
Submitters' views on proposal	All submissions on this proposal supported it.
Final proposal (post consultation)	The fee for an infringement offence associated with non-compliance with a Compliance Notice under Section 156I of the Act be set at $500, with a maximum fine of $1,500 (if imposed by the Court).

Option assessment (not regulate or regulate)

Table

Option	Effective	Efficient	Clear	Equitable
1	x	x	—	x
2	✓	✓✓	—	✓✓

Analysis of options against criteria

Option 1 – Do not prescribe an infringement fine for compliance notices by regulation

Not setting an infringement fine for compliance notices would limit the tools available to address lower-level offending. Any non-compliance would need be addressed via a regulatory prosecution offence under section 156 of the Act. This is not equitable or practical and may result in a lack of compliance and consequent risks to animal health and welfare.

Option 2 – Prescribe an infringement fine for compliance notices by regulation (preferred)

Setting an infringement fine for compliance notices would provide an additional tool to respond to lower-level offending and ensure that the penalties are commensurate to the level of offending. Issuing infringement fines for non-compliance with a compliance notice will be efficient, encourage compliance and consequently contribute to animal welfare. It would not preclude prosecutions being taken under the Act for serious offending.

Rationale for preferred option

Setting an infringement fine for non-compliance with a compliance notice will provide a tool to respond to lower-level offending that would not warrant a prosecution. The penalty level is considered appropriate because by the time an infringement offence is issued the owner or person in charge of the animal has:

- already been informed that the practice does not comply with the Act or regulatory requirements, as they have been issued a compliance notice; and
- been provided time to rectify the situation and has failed to do so.

If an animal is suffering as a result of non-compliance, offences under the Act would also be available.

Expected impact of proposed regulation

The infringement fine provides a mechanism to ensure people comply with the Act and any regulation made under it.

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Glossary

Agricultural Compounds and Veterinary Medicines Act 1997 – An Act to prevent or manage the risks associated with the use of agricultural compounds. Veterinary medicines imported, manufactured, sold, and used in New Zealand must be authorised under this Act.

Analgesics – Medicines used to relieve pain. Analgesic drugs are sometimes referred to as painkillers, and include nonsteroidal anti-inflammatory drugs (NSAIDs) and opioids.

Anaesthetics – Drugs used to produce a loss of sensation, including pain. Anaesthetic drugs may be local (where sensation is lost on part of the body only), or general (where the patient is unconscious and does not respond to stimuli).

Animal Welfare Act 1999 – An Act that sets out how people should take care of and act towards animals. The Act is jointly enforced by the Ministry for Primary Industries, the SPCA and New Zealand Police.

Animal ethics committee (AEC) – Most research institutions have AECs that researchers and teachers must use if they wish to carry out any form of research, testing or teaching on an animal. The Animal Welfare Act 1999 requires the use of animals for research, testing and teaching to be approved by an AEC. Key responsibilities of an AEC include reviewing applications to use animals for research, testing and teaching, setting appropriate conditions on approved projects, monitoring approved protocols, approving and monitoring adherence to standard operating procedures (SOPs) and reviewing the results of approved projects.

AEC approval – Refers to either an AEC approving a standard operating procedure used outside of an AEC approved project, or approving a procedure within an AEC approved project.

AEC approved project – A project approved by an AEC under Part 6 of the Animal Welfare Act 1999.

Blistering and firing a horse – A procedure which involves applying chemical cautery or firing to the legs of a horse and which creates tissue damage, or an inflammatory reaction, in the legs of the horse.

Beak tipping (also known as beak trimming or debeaking) – A procedure to remove a portion of the beak to minimise the risk of birds pecking one another and cannibalism. The procedure is often performed on production and breeder birds.

Bearing – Also called a vaginal prolapse in a ewe, which occurs when the vagina is pushed out and protrudes externally. Vaginal prolapses can occur in the last month before lambing and occasionally after lambing.

Biopsy – A procedure that involves removing cells or tissues for examination.

Caslick's procedure (also referred to as Caslick's, Caslick's seam, or Caslick's suture) – A surgical procedure undertaken to correct faulty conformation of a mare's vulva.

Castration – Removal of an animal's testicles, including by severing or crushing the blood supply to the testes, severing or crushing the spermatic cords, or holding the testes against the abdominal wall.

Caudal folds – folds of skin on the underside of a sheep's tail.

Cheek tooth – Molar and premolar teeth.

Clipping – Refer to definition for marking.

Code of welfare – Sets minimum standards for how people should care for and manage animals, and are provided for under the Animal Welfare Act 1999.

Companion animal – An animal that is primarily kept for companionship and enjoyment rather than commercial benefit.

Competent person – Any person who can demonstrate they have sufficient experience, training and knowledge to perform a nominated procedure. This includes having experience with, or having received training in, the correct use of the method being used; being able to recognise early signs of significant distress, injury, or ill-health so that they can take prompt remedial action or seek advice; being able to use suitable equipment; and having the relevant knowledge, or having received relevant training, or being under appropriate supervision.

Conservation Act 1987 – An Act to promote the conservation of New Zealand's natural and historic resources.

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Cropping of a dog's ear – A procedure to remove part or all of the pinnae or auricles (the external visible flap of the ear and earhole of a dog). The procedure is undertaken to make the ears of a dog stand upright.

Crutching – or dagging refers to cutting away dirty, wet wool from around the tail and anus of sheep.

Deciduous tooth – A baby or milk tooth.

Dehorning – A procedure to remove whole horns (including any regrowth that may occur after disbudding) from an animal by amputation.

Desexing or sterilisation – A procedure undertaken to make animals infertile, including, but not limited, to vasectomy, castration, hysterectomy and oophorectomy (ovariectomy).

Desnooding – A procedure to remove the fleshy appendage on a turkey's head. Desnooding helps to prevent injury that may result from fighting amongst birds.

Develvetting – A procedure to remove velvet antlers from deer.

Disbudding – A procedure to remove horn buds from young animals.

Docking – The shortening or removal of the tail of an animal by any means.

Dubbing – A procedure to remove the comb, wattles and sometimes earlobes of poultry.

Electric prodders – A handheld electrical device used to manage animals by delivering an electric shock.

Epidural – A procedure that involves injecting a local anaesthetic into the epidural space of the lumbar or sacral region of the spine. This numbs the nerves in the lower back and results in a loss of sensation in the area.

Equid – An animal belonging to the equidae family. The family includes horses, donkeys, and zebras.

Equine – Relating to or affecting horses or other members of the horse family.

Fighting teeth – Modified canine and incisor teeth found the jaws of animals between incisor and molar teeth.

Fisheries Act 1996 – Gives commercial, recreational and customary fishers access to resources while also ensuring fish stocks are managed sustainably.

Freeze branding – A procedure that involves applying a freezing iron to skin to produce a burn that destroys pigment-producing hair cells, causing the hair to grow white and form a brand which assists with animal identification.

Gingiva – Gums.

Gingival margin – The top edge of the gingiva surrounding, but not attached to, a tooth.

Hot branding – A procedure that involves using hot irons to burn the skin, creating a permanent mark on which no hair will grow.

Husbandry – The branch of agriculture concerned with the care, cultivation and breeding of animals for food products.

Husbandry procedure – Care and management practices.

Incisors – Teeth at the front of the mouth that are adapted for cutting food.

Infrared beam beak treatment – a procedure which is used to tip, or trim, bird beaks. An infrared beam beak treatment machine delivers a burst of heat to the beak tip which then softens and breaks down over approximately two weeks.

Keratin sheath – the hard thickened tissue that surrounds spurs. Keratin is a fibrous protein that makes up hair, nails, feathers, horns claws and spurs.

Lairage – A facility where animals are held before slaughter.

Laparoscopic procedure – A procedure that involves making small incisions to insert a scope with a camera to undertake surgery. It is sometimes called 'keyhole surgery' and is considered less invasive than open surgery.

Leporid – Members of the family Leporidae. They include rabbits and hares.

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Marking – As defined under the Animal Welfare Act 1999, this means marking an animal by any method to distinguish it from other animals of the same type, and includes affixing or applying to, or implanting in, that animal any band, ring, clip, tag, electronic identification device, paint or any other thing.

Mechanical soring of a horse – A procedure that involves trimming the hooves of horses and applying devices to the hooves that are painful. Soring forces the horse to pick up its feet faster and higher as a result of excessive pressure on the hoof wall.

MPI – Ministry for Primary Industries.

Mucous membrane or mucosa – A membrane that lines different spaces in the body and covers the surface or organs.

NAEAC – National Animal Ethics Advisory Committee. This committee is established under the Animal Welfare Act 1999 to provide independent advice to the Minister of Agriculture on ethical and animal welfare issues for animals used in research, testing and teaching.

Nasal septum – is the bone and cartilage in the nose that separates the nasal cavity into two nostrils.

National Velvetting Standards Body – the National Velvetting Standards Body is a committee comprising two farmer representatives nominated by deer industry levy players and approved by the New Zealand Deer Farmers Association; and two veterinarians nominated and approved by the New Zealand Veterinary Association to implement the code of recommendations and minimum standards for the welfare of deer during the removal of antlers.

NAWAC – National Animal Welfare Advisory Committee. This committee is established under the Animal Welfare Act 1999 to provide independent advice to the Minister on animal welfare matters in New Zealand, including making recommendations to the Minister of Agriculture on codes of welfare.

Needle teeth – Small sharp teeth found in piglets.

Nicking a horse – A procedure that involves cutting the skin or ligaments of the tail of the horse to make the horse carry its tail in a raised position.

Notching – A procedure to slit the webbing between the toes of bird.

Occlusal surface – Surface of a tooth used for chewing or grinding food.

Oophorectomy – A surgical procedure to remove one or both ovaries. Sometimes called ovariectomy.

Ovariectomy – A surgical procedure to remove one or both ovaries. Sometimes called oophorectomy.

Palatine artery – two arteries on each side of the face. The inferior and superior arteries serve the soft palate, hard palate and gums in the mouth.

Paraprofessionals – People who perform a range of services for animals as their job, but who are not necessarily licensed or members of a professional body. Veterinary paraprofessionals include veterinary nurses and technicians, equine dental technicians, and farriers, but do not include farmers.

Phalanges – the toe bones in birds' feet.

Pinioning – A procedure to surgically remove a bird's pinion joint to prevent the growth of flight feathers.

Pinniped – A fin or flipper-footed marine mammal that has front and rear flippers, including walruses, 'eared' seals such as sea lions, and 'earless' seals such as leopard seals.

Polled – A term used to refer to horned livestock that have had their horns removed.

Prolapse – A condition where an organ slip out of place.

Punching – A form of tattooing where information is stamped onto the animal or where a hole is punched in the ear.

Rectal examination – A diagnostic tool that may be used as a part of a clinical examination for conditions such as colic. For this procedure, an operator inserts their hand and arm into the rectum as far as necessary to conduct the examination.

Rectal pregnancy diagnosis – A procedure involving insertion of an ultrasound probe into the rectum of the animal. Routinely used for checking the stage of cycle of a mare about to be bred and for subsequent pregnancy diagnosis.

Research, testing and teaching – Defined under the Animal Welfare Act 1999 as involving any work including whether investigative, experimental or diagnostic, toxicity testing or potency, breeding, teaching, that involves manipulating animals.

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Rodents – Mammals such as rates, mice and hamsters that belong to the order Rodentia. Rodents have a single pair of incisors that grow continuously in each of the upper and lower jaws.

Sham branding – a form of branding that involves using cool irons to mark animals. A cool iron is held against the animal's skin to stimulate the sensation of the branding process without actually branding the animal. It is often used as a control when studying the effects of hot or freeze branding to see how much stress can be attributed to the branding process without the effects of an actual brand.

Significant surgical procedure – Defined under the Animal Welfare Act 1999 as including any surgical procedure that is restricted and controlled and any surgical procedure. This definition will be repealed and replaced on 9 May 2020 by amendments in the Animal Welfare Amendment Act (No 2) 2015 with a new regime for significant surgical procedures.

Sinus of the horn – refers to the cavity at the base of horns that can become exposed through disbudding or dehorning.

SPCA – The Royal New Zealand Society for Prevention of Cruelty to Animals. The SPCA is approved under the Animal Welfare Act 1999 to have animal welfare inspectors who can enforce the Animal Welfare Act.

Standard Operating Procedure (SOP) – Procedures that have been approved by an AEC for routine manipulations of animals.

Supernumerary teat – A small teat on an animal's udder, additional to the animal's main teats (four in cattle, and two in sheep and goats), which are usually blind. However, supernumerary teats can have teat canals, gland tissue, and produce milk. They can interfere with milking cups during milking and/or get infected.

Tagging – Also refer definition for marking. Involves inserting a tag into the ear or wing of an animal or inserting a microchip under the skin, muscle or ligament of an animal.

Teat occlusion – Any procedure which leads to a permanent blocking of the teat canal. This includes the application of a rubber ring or other device which might lead to physical occlusion of the canal.

Therapeutic purpose – An action taken to respond to a disease or injury.

Uterine lumen – The cavity or central channel of the uterus.

Wolf teeth – Upper or lower first pre-molar teeth.

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