

## In Confidence

Office of the Associate Minister of Agriculture (Animal Welfare)  
Chair, Cabinet Economic Development Committee

## Animal Welfare Regulations – Approval to consult on the implementation of minimum standards addressing the long-term farming of dairy cattle off-paddock

### Proposal

1. This paper seeks Cabinet approval to release the attached consultation paper in order to undertake consultation on proposed regulations to:
  - 1.1 implement two new minimum standards addressing the long-term farming of dairy cattle in off-paddock facilities<sup>1</sup>; and
  - 1.2 provide a transition period for farms that need time to modify or replace their facilities and management systems to become compliant with the minimum standards, and to bring the minimum standards into force immediately for new builds.

### Relation to Government priorities

2. This proposal relates to the Government's priority to create an international reputation that we can be proud of.

### Executive Summary

3. In 2019, the Minister of Agriculture agreed that two minimum standards relating to the management of off-paddock dairy cattle facilities (Appendix One refers) be implemented, but with lead-in time of 12 months.
4. Fewer than ten farms were identified as likely to be affected. These farms may need time to alter their existing systems to become compliant, at significant cost.
5. The Animal Welfare Act 1999 (the Act) enables regulations to provide of minimum standards by up to ten years<sup>2</sup>.

---

<sup>1</sup> An off-paddock facility is a facility that incorporates a constructed base, and may have a roof or walls. Off-paddock facilities include calf sheds, purpose-built housing barns for cows, stand-off areas or pads (including long-term or wintering pads), and also feed pads. Further information on off-paddock facilities is available in Appendix One.

<sup>2</sup> Section 183A(2) allows for regulations that do not meet the obligations of the Act to be developed, subject to a transition period of up to 10 years. Section 183A(6) of the Act allows the consideration of a further five years, if it is considered reasonably necessary for a sector to transition away from current practice.

6. Regulations are proposed to insert the two minimum standards into the Code of Welfare: Dairy Cattle. These regulations will establish a transition period in regulation for affected farms to become compliant, and bring the minimum standards into force immediately for new builds.
7. Ministry for Primary Industries (MPI) seeks to undertake consultation for four weeks from November 2021. This will involve targeted engagement with industry to gauge the costs and impacts of implementing the minimum standards for dairy cattle kept off-paddock. This information will inform advice to Cabinet on the transition period needed through regulation.

## Background

8. The Act provides the framework for protecting the welfare of animals in New Zealand. The Act establishes obligations that owners and people in charge of animals must meet in caring for their animals.
9. The Act is supported by regulations that improve the enforceability, clarity and transparency of animal welfare obligations. Regulations can also be used to phase out practices that do not fully meet the obligations of the Act<sup>3</sup> through implementing a transition period.
10. Codes of welfare are established by Part 5 of the Act. They contain minimum standards, promote recommended best practice and set clear expectations for those who care for and interact with animals.
11. Minimum standards set out the minimum care or conduct requirements needed to meet obligations of the Act. Non-compliance with minimum standards is used as evidence to support prosecutions under the Act<sup>4</sup>.
12. The National Animal Welfare Advisory Committee (NAWAC) provides the Minister responsible for animal welfare with independent advice on animal welfare issues. NAWAC is responsible for developing codes of welfare under the Act and recommending to the Minister responsible for animal welfare that codes of welfare be issued.
13. In 2019, the Minister of Agriculture approved an amendment to the Code of Welfare: Dairy Cattle, addressing requirements for off-paddock facilities.

---

<sup>3</sup> Section 10 and Section 11 of the Act prescribe obligations in relation to the physical, health and behavioural needs of animals, as well as obligations to alleviate pain or distress of ill or injured animals.

<sup>4</sup> Minimum standards can be considered when a prosecution is taken under the Act to assist the courts to determine if the defendant met the minimum standard of care necessary for their animal.

14. The 2019 amendment initially included two minimum standards addressing the welfare of dairy cattle kept off-paddock long-term. They are:
  - 14.1 **Minimum Standard 9(c)(iii):** Where [dairy cattle are] held in any off-paddock facility for more than 150 days in a 365-day period...they must have daily or frequent access to pasture or a suitable outdoor area for the balance of that period; and
  - 14.2 **Minimum Standard 9(c)(iv):** A suitable outdoor area must have a compressible soft surface and be of sufficient size to allow dairy cattle to express a wide range of normal patterns of behaviour, in particular greater freedom of movement and social interaction, to ensure Minimum Standard 6 [providing for behavioural needs] is satisfied.
15. In 2019 advice to the Minister of Agriculture, NAWAC recommended a lead-in time of up to 12 months for the above minimum standards to come into effect. This was based on evidence that some off-paddock systems would not meet the new requirements, and the change was likely to impose significant costs upon those farms that needed to alter their existing systems.
16. NAWAC's advice acknowledged that a lead-in time should be implemented but that it was best achieved through regulation. The Minister of Agriculture agreed to this approach. The Act allows for regulations to bring into effect a minimum standard and to set a transition period of up to ten years.
17. MPI intended for these minimum standards to be implemented in 2020. However, the COVID-19 response delayed the ability for MPI to engage on and progress the work.

## Analysis

18. NAWAC engaged with industry as part of consultation completed in 2019, and identified fewer than ten farms were likely to be affected and would need to alter their existing systems. 9(2)(b)(ii)  
[REDACTED]  
[REDACTED]  
[REDACTED]
19. Affected farms may need to modify or replace their existing systems:
  - 19.1 where pasture is unavailable, to build a suitable outdoor area that has a compressible soft surface and is of sufficient size to allow animals to express a wide range of normal behaviours;
  - 19.2 to ensure suitable fencing and infrastructure to allow for outdoor access; and/or
  - 19.3 to change management systems to facilitate access to the outdoors if the animals have been in an off-paddock facility for more than 150 days in a 365-day period.

20. MPI's preliminary discussions with industry stakeholders and affected farmers indicated that the cost of transition for this small number of farmers may be significant. Given this, a transition period of longer than 12 months may be needed for farmers who have facilities that currently do not meet the requirements of these minimum standards.
21. MPI will quantify the scope and the magnitude of these costs on affected farms through consultation.
22. Off-paddock systems that do not meet the requirements of these minimum standards will not meet animal welfare obligations under the Act. Therefore, I recommend that the minimum standards come into effect immediately for new infrastructure, to discourage further non-compliance. The supporting regulations would need to reflect this.
23. Regulation is needed to:
  - 23.1 insert the minimum standards into the Code of Welfare: Dairy Cattle<sup>5</sup>, as intended so that requirements for outdoor access are confirmed;
  - 23.2 implement a transition period in regulation to provide a lead-in time for farms with existing systems that do not meet the new requirements; and to give immediate effect to the minimum standards for new builds to discourage the development of further non-compliant systems.
24. The Act requires that, when making a transition period by regulation, the Minister responsible for animal welfare must be satisfied that:
  - 24.1 any adverse effects of a change from current practices to new practices have been considered and there are no feasible alternatives currently available; and/or
  - 24.2 not to regulate would result in an unreasonable impact on a particular industry sector within New Zealand, a sector of the public, or New Zealand's wider economy. In deciding whether any impact is unreasonable there must be regard to the welfare of any affected animals.
25. MPI needs to undertake targeted engagement with affected farmers and other stakeholders to gauge the cost and impact of the welfare changes for dairy cattle held off-paddock. This information will inform advice to Cabinet on the transition period needed through regulation.
26. The attached consultation paper provides options for transition periods of up to ten years.

## Financial Implications

27. There are no direct financial implications to the Crown due to this paper.

---

<sup>5</sup> Section 183A(1)(b) of the Act allows for the Minister to insert minimum standards into codes of welfare using regulations.

## Legislative Implications

28. There are no legislative implications from this paper.

## Impact Analysis

29. The discussion document *Proposed transition period for minimum standards addressing the long-term farming of dairy cattle off-paddock* functions as an interim Regulatory Impact Assessment. The MPI Quality Assurance panel have reviewed the discussion document and confirms that it is likely to lead to effective consultation and support the delivery of Regulatory Impact Analysis to inform subsequent decisions.

## Population Implications

30. Rural communities are most likely to be affected by the proposed changes. As noted previously, NAWAC identified fewer than ten farms likely to be affected.

## Human Rights

31. There are no human rights implications from this paper.

## Consultation

32. The following government agencies were consulted on this paper Te Arawhiti, Te Puni Kōkiri, the Department of Corrections, the Department of Prime Minister and Cabinet, the Ministry for Business, Innovation and Employment, the Ministry for the Environment, the Ministry of Justice and The Treasury.

## Communications

33. MPI will work with my office to coordinate the release of the discussion document to stakeholders and the commencement of consultation for a period of four weeks from November 2021.

## Proactive Release

34. I intend to proactively release this Cabinet paper with redactions equivalent to the Official Information Act 1982.

## Recommendations

I recommend that the Committee:

1. Note that in 2019 the National Animal Welfare Advisory Committee recommended two minimum standards related to the welfare of dairy cattle kept off-paddock long-term;
2. Note the National Animal Welfare Advisory Committee also recommended a lead-in time of up to 12 months for these standards to come into effect, and the Minister of Agriculture agreed;
3. Note that minimum standards can be made by regulation which allows the consideration of a transition period of up to ten years;
4. Note that regulation is proposed to insert the minimum standards in the Code of Welfare: Dairy Cattle;
5. Note that a transition period of up to ten years is proposed in regulation to provide a lead-in time for these minimum standards to allow time for impacted farms to become compliant, and for the minimum standards to have immediate effect for new builds to discourage further non-compliance;
6. Note that consultation will focus on the consideration of an appropriate transition period for the minimum standards;
7. Agree to the release of the attached consultation paper '*Proposed transition period for minimum standards addressing the long-term farming of dairy cattle off-paddock*';
8. Agree to delegate authority to the Associate Minister of Agriculture (Animal Welfare) to make minor editorial changes to the attached consultation paper before consultation;
9. Note the intention to publicly consult for four weeks from November 2021.

Authorised for lodgement

Hon Meka Whaitiri  
Associate Minister of Agriculture (Animal Welfare)