



**ANIMAL HEALTH AND WELFARE BILL
PUBLIC CONSULTATION PROCESS**

**VETERINARY IRELAND SUBMISSION
TO THE
MINISTER FOR AGRICULTURE, FISHERIES AND FOOD,
10 JULY 2008**

Introduction

Veterinary Ireland is the representative body for the profession and has at its disposal experts in food, companion, equine and exotic species of animals. It also has access to Private Practitioner, Local Authority, State Veterinary and academic experience in the areas of animal health and animal welfare.

Veterinary Surgeons have a primary responsibility, both ethically and legally, in the areas of animal health and welfare.

The development of new legislation can help to ensure that the health and welfare of animals are maintained to the highest standards. Towards this end, we believe that direct input of veterinary expertise, scientific knowledge and acquired experience is essential for the successful outcome of the legislative process now underway.

Veterinary Ireland therefore, welcomes this opportunity to make this submission and looks forward to further discussions and further input as the process of developing the Animal Health and Welfare Bill progresses

We have for some time been seeking access to the draft Bill and believe that our comments can be more precisely tailored and constructive, to suit the legislative requirements when this becomes available to us. In the meantime, the following points should be borne in mind.

For ease of reference we are presenting our views in the form of responses to the points raised in 'the brief summary of the content of the draft bill' as circulated by the Department. We deal with them in the same sequence that they are presented in the paper. The relevant extracts from the summary are shown in parenthesis, and appear in ***Bold and Italics*** followed by our comments on them.

Comments

“The Bill will also provide any necessary statutory basis to give effect to the commitment in the Programme for Government that the responsibility for the welfare of all animals (including non-farm animals) will be consolidated in the Department of Agriculture, Fisheries & Food. In this regard, it should be noted that, while welfare responsibilities for all animals, and not just for farm animals as at present, will be assigned to the Department of Agriculture, Fisheries & Food, control and regulatory responsibilities for non-farm animals - for example in relation to horses and dogs or experimental animals, which are currently exercised by the Departments of the Environment, Heritage and Local Government and Health and Children - will remain the responsibility of the other relevant Departments”.

Given that there are very limited numbers of responsibilities in this area which are delegated at present to the Department of Health and Children, and given especially that there is no veterinary expertise in that Department, we would urge that such functions should be placed with the Department of Agriculture, Fisheries and Food.

The importance of Biomedical Research in Ireland and its potential for expansion in the future have been highlighted in the National Development Plan. To facilitate this expansion it is imperative that we adapt to accommodate the changing needs of the research community. We also need to provide public reassurance that legislative controls are effectively implemented to ensure optimum standards of care and welfare for experimental animals. Members of the profession involved in the research industry have worked hard to ensure that best practice standards are achieved for the care and welfare of experimental animals but have been both concerned and frustrated that legislative regulation has failed to reflect or support these advances.

The impending revision of 86/609/EEC is likely to impose an additional layer of legislative requirements. It is essential that Part 7 of the proposed Animal Health and Welfare Bill includes enabling provisions to ensure appropriate ratification and implementation of the revised Directive. For the reasons outlined herein we also advocate that Part 7 include provision for transfer of control and regulatory responsibilities for experimental animals to the Department of Agriculture, Fisheries and Food in addition to welfare responsibilities.

In these regards, Veterinary Ireland is aware that the Irish Laboratory Animal Science Association (ILASA) has made a detailed submission in relation to the proposed Animal Health and Welfare Bill. Veterinary Ireland would wish to support the approach outlined in the ILASA submission.

“Part 1 of the draft includes standard provisions relating to the title and interpretation of the Act and also enables the Minister to publish, cause to be published or adopt Codes of Practice and to allow for the Courts to have regard to such Codes of Practice in legal proceedings”.

In this regard it should be noted that some Codes of Practice drawn up, for example, by bodies such as the Farm Animal Welfare Advisory Council (FAWAC) are intended to be non-regulatory and not necessarily to have full legal form and effect, but rather to emphasize the principles of ‘minimum standards’ in ‘good practice’ in certain areas of animal welfare. Such codes are applicable to support the relevant legislation but not as a substitute for it. In addition it is important that these codes should be subject to regular review in accordance with updated scientific knowledge and its practical application.

“Part 2 deals with the scope and application of the animal health legislation and provides arrangements for the prevention, control and eradication of animal diseases. This is a very important Part of the Bill as it gives the Minister adequate powers - including powers to establish zones and to apply a range of controls - to deal with all existing or potential animal diseases and outbreaks or the risks associated with diseases or outbreaks. Provision will be made to require owners of animals to take measures to minimise the risk of spreading disease, to segregate animals and to prevent them straying. This part will also make it an offence to transmit a disease or introduce a disease agent to an animal and it will include a section on the administration of vaccines to complement existing provisions contained in the Animal Remedies Act 1993”.

As a first step here, it is vital to ensure that the legislation is framed in such a way that the Minister is enabled to introduce any and all appropriate and necessary Regulations ‘to deal with all existing or potential animal diseases and outbreaks’. A second stage in the process will then be to identify the areas that need to be regulated.

We would welcome clarification on what is intended to be covered by the ‘section on the administration of vaccines to complement existing provisions contained in the Animal Remedies Act 1993’.

“Part 3 of the Bill deals comprehensively with animal welfare and is another central part of the Bill, not least given the specific animal welfare-related commitments contained in the Programme for Government. It is intended to provide for differentiated levels of welfare for farmed animals, protected animals and all animals with farm animals receiving the highest level. In broad terms, it is proposed that there will be a specific ‘duty of care’ to ensure that the welfare and well-being of animals is adequately protected as appropriate to the circumstances and there will be provisions to address such issues as the prevention of needless pain or unnecessary suffering of animals as well as on the abandonment of animals”.

An overarching comment, but one which will have particular significance in the context of this part of the Bill, is the need for a very precise and clear definition of ‘animal’ and other welfare - related key terms in the legislation such as “unnecessary suffering”, “duty of care”, the specific welfare responsibilities of owner/carer of animal/animals in ensuring the welfare of animals and the application of welfare notices, in this context. This should include the required expertise in the assessment of animal welfare, and the requirements in this area need to be clearly identified.

We would have concerns in relation to the use and practical application of phrases such as the provision of ‘differentiated levels of welfare for farmed animals, protected animals and all animals with farm animals receiving the highest level’. Clarifications on the intentions behind this approach are required.

The inclusion of the concept of ‘duty of care’ is to be commended, and we would stress that this should apply particularly to the ‘keeper’ of the animal, and not just the ‘owner’. For practical purposes there is a requirement for the inclusion in the legislation of a technical definition of the term ‘duty of care’ and of its explicit application in welfare terms to ensure the welfare standards of animal are maintained.

References to ‘the prevention of needless pain or unnecessary suffering of animals’ should be replaced with ‘the prevention of avoidable pain or avoidable suffering’. A detailed definition and description of this term and its application is recommended here.

“Particular potentially cruel activities involving animals will be specifically prohibited and the involvement in such activities will be an offence. This provision will update existing provisions of the Protection of Animals Act 1911. Specific provision will also be included to deal with feeding, inspection and record keeping in respect of specified categories of animals and the conditions in which animals for sale are kept prior to sale – the latter will relate particularly to pet shops and similar premises”.

We would suggest that the term ‘potentially cruel activities’ be described and that reference be made to some of these, for example “including but not restricted to activities such as dog fighting and badger baiting”. The regulation, licensing and registration of ‘pet shops and similar premises’ should expressly include those used for boarding, impounding, rescue and rehabilitation and should be based on both operational and structural requirements in terms of animal health and welfare.

We would be concerned about the adequacy of skills and competencies of those who sell pets - particularly in relation to the sale of exotics species. We believe that all those who work with animals for commercial gain should be required to have training and skills appropriate to the tasks being undertaken and provisions should be included in the legislation to regulate such operators wherever appropriate. In addition, provision for appropriate training requirements for owners is also recommended. Provisions for the licensing, registration and monitoring of performing animals should be included here in the legislation. It is Veterinary Ireland's position that all circuses, zoos and other environments in which animals are used for public entertainment and/or education should be subject to regular veterinary inspection. Specifically, with regard to travelling circuses and shows, it should be a condition of the granting of an entertainment licence by the local authority in any new location that the animals and the facilities provided for them be inspected and approved by a veterinary inspector of the relevant authority and found to be satisfactory.

“It will be a specific offence to mutilate animals, other than when necessary for the health and welfare of the individual animal. This Part will deal also with the use of anaesthetics in operations and will specify standards relating to the slaughter of animals and include provisions relating to poisons.”

The inclusion of a section on ‘mutilation’ is also to be welcomed. Getting this clearly defined will be important and we would offer the following proposed definition for consideration.

‘An **‘Act of Mutilation’** means any non-therapeutic or non-beneficial* procedure which interferes with, incises, removes, amputates or destroys any living and/or sensitive structure of an animal and/or which may be reasonably considered to inflict any pain or suffering on an animal. Relating to companion animals, such procedures include, but are not confined to, tail-docking, ear cropping, dew claw removal and de-vocalisation in dogs and de-clawing in cats’.

*‘Non beneficial’ in this circumstance can be defined as an act which derives no net physical or psychological benefit to the animal in question, to the group of animals with which that animal normally resides, to the persons handling the animal if the prime motivator of the act is to reduce any danger associated with handling that animal or, failing these, where this act derives no net benefit to society as a whole.

An offence in this context should include the taking of the animal by an owner/keeper, for this purpose, to a country where the procedure may not be regulated.

In relation to slaughter of animals we would strongly urge the inclusion of suitable requirements for the ‘licensing’ of ‘slaughtermen’. Also, a clear definition of ‘humane slaughter’ should be included in the legislation.

“This Part would provide for the continuation of normal farming, sporting and other activities where these do not involve reckless endangerment of the welfare of animals”.

We welcome this assertion but would stress the need for a definition of, or a substitution for, the term ‘reckless endangerment’, so as to avoid unnecessary disputes in the future.

“Part 5 provides for the destruction and disposal of animals, animal products etc. in various circumstances. More specifically, it provides for the possibility of the slaughter and disposal of animals, animal products, animal by-products, waste, feed etc in the case of disease, illegal importation/exportation, specific animal welfare circumstances, etc. This Part also provides for the circumstances in which compensation may be paid in whole or in part for animals, products, by-products etc. and also deals with issues relating to insurance, valuation and arbitration, including the arrangements for the appointment of valuers and arbitrators.”

On-farm emergency slaughter has been considered at great length in recent years by Veterinary Ireland, Department officials and other interested bodies in conjunction with FAWAC. The outcome of this collaborative work has been the establishment of a practical protocol which should be contained within this upcoming legislation.

In relation to ‘disposal of animals’ legislation, the existing ambiguities in the current legislation on disposal, should be addressed to ensure the removal of the potentially conflicting application of the European Communities Animal Bi Products Regulations 2003 and the Control of Dogs Act 1986.

In relation to legislating for disposal of companion animal carcasses, care should be taken not to inadvertently outlaw practices such as the burial of a domestic pet in a back garden.

“Part 6 deals with assurance schemes generally and allows for Regulations to be made for the establishment of assurance schemes and for the granting of certificates of approval under such schemes. The provisions of this Part largely mirror the relevant provisions of the National Beef Assurance Scheme Act 2000, which it is also proposed to repeal.”

Given their expertise in animal health, animal welfare and public health, provisions should be made for strong veterinary involvement in the development and implementation of assurance schemes. The provision of a meaningful animal welfare component within the framework of assurance schemes, would impact positively on this area.

“Part 8 of the draft Bill deals with local authorities and their functions under the Act and enables them, with the consent of the Minister, to make regulations for the purpose of fulfilling their responsibilities under the Act.”

Two points arise here. Firstly, Local Authority Veterinary Officers should be authorised officers for the purposes of issuing all welfare notices required under legislation for the areas for which they have responsibility.

Secondly in relation to ‘the consent of the Minister’, it is important that the Minister, and others, should ensure that there is uniformity of approach as between the various local authorities.

“Part 10 of the draft Bill includes a number of miscellaneous amendments to amend a number of statutory provisions.

Part 11 includes a number of further miscellaneous and final provisions relating to such issues as conducting a census of animals, the health of animals keepers, the service of animal health and welfare or fixed penalty notices and for the delegation or contracting of specified functions. It also includes a number of other standard provisions relating to the expenses and costs of the Minister in administering the Act as well as the disposal of moneys by the Minister.”

More information is needed on these aspects in order to make meaningful comments.

“This Part also includes a lengthy list of legislation that it is proposed to repeal, the current draft of which is attached at Annex 2 to this paper. As the drafting of the Bill is finalised and throughout its passage through the Oireachtas, it is quite possible that the proposed list of repeals will be modified and the attached list cannot, therefore, be regarded as a definitive list of repeals at this stage”.

Annex 2 includes an extensive list of ‘Proposed Repeals’. We would urge caution in the approach to this. Perhaps it should be done on a phased basis, particularly with a view to ensuring that the repeal of a particular piece of legislation is ‘mirrored’ by the introduction of the appropriate counterpart in the new legislation. In this context, the retention of the main current primary legislation is strongly recommended, until such time as all of its relevant revoked areas have been adequately and appropriately replaced by secondary legislation.

With regard to the introduction of secondary legislation, it is recommended that provision should be made within the Act to include prior consultation by the Minister with the relevant experts.

With regard to the Ministerial appointment of authorised officers, a requirement for compulsory training is recommended with a requirement for prior expert approval of specified training standards and relevant training manuals.

In relation to Offences, Convictions, Deprivation Orders, Disqualification Orders, Seizure and Penalties, further detail is required to facilitate a practical input in this key area.