

EU LEGISLATION ON THE WELFARE OF FARMED ANIMALS ON-FARM

Most pigs and poultry in the EU (including the UK) are farmed industrially. EU legislation has made some significant progress in that it has prohibited some of the worst aspects of factory farming. This is important not just for animals in the EU but because at a time when industrial farming is spreading throughout much of the world, it is valuable to be able to point to one major jurisdiction that is prepared to prohibit certain practices even though they are widely used. However, there is a very long way to go before the EU has in place comprehensive legislation that requires industrial livestock production to be replaced by humane, sustainable animal farming.

A helpful cornerstone in this field is the Protocol on Protection and Welfare of Animals that was annexed by the Treaty of Amsterdam¹ to the Treaty establishing the European Community (the EC Treaty). The Protocol is legally binding as the EC Treaty stipulates that "The Protocols annexed to this Treaty ... shall form an integral part thereof".² The Protocol provides that in formulating and implementing the Community's policies on agriculture, transport, the internal market and research, the Community and the Member States "shall pay full regard to the welfare requirements of animals" (my emphasis).

EU legislation has prohibited what are arguably the three most inhumane of industrial farming's rearing systems: veal crates, sow stalls and battery cages.

Veal crates

Veal crates have been prohibited in the EU since 31 December 2006 (having been banned in the UK since 1990). In this system the calf is kept in a solid-sided crate of wood, which is so narrow that he cannot even turn round from the age of about two weeks.

A distinctive feature of EU legislation on farmed animal welfare is that it is based on scientific evidence. Each proposal for a new Directive is based on a report by a body that was initially called the Scientific Veterinary Committee (SVC), then the Scientific

¹ Treaty of Amsterdam amending the Treaty on European Union, the Treaties establishing the European Communities and certain related acts. Official Journal C340, 10.11.1997 p. 0110.

² *Id.* at art.311 (formerly art.239).

Committee on Animal Health and Animal Welfare (SCAHAW) and now the Scientific Panel on Animal Health and Welfare of the European Food Safety Authority (EFSA).

A 1995 report by the SVC was highly critical of the veal crate system, concluding that the welfare of calves kept in crates is “very poor”.³ On the basis of this report the 1997 EU Calves Directive amended the 1991 Calves Directive and prohibited veal crates.⁴

The other essential characteristic of the veal crate system, in addition to the narrow crates themselves, is that, in order to produce the ‘white’ veal prized by some gourmets, the calf is fed on an extremely unhealthy diet deficient in iron and roughage; indeed, many crated calves are given no solid food at all. The SVC report also condemned this aspect of the veal crate system and accordingly a 1997 Commission Decision amended the 1991 Calves Directive to require all calves to be given a certain amount of fibrous food and dietary iron.⁵ The required quantities are insufficient but the Directive establishes an important principle and the next goal is to secure an increase in these quantities when the Directive is reviewed; a review was due in 2006, but has not yet taken place.

A crucial difference between UK and EU legislation is that in the UK calves have to be given “appropriate bedding” until the age of six months⁶, whereas the EU Directive only requires the provision of bedding for the first two weeks. As a result many continental veal crates have been replaced by extremely barren systems in which calves are kept on concrete or slatted floors without any straw or other bedding.

Sow stalls and pig welfare

Sow stalls are metal barred stalls that are so narrow that the sow cannot even turn round. She is confined in the stall throughout her 16½-week pregnancy – and for pregnancy after pregnancy, i.e. for most of her adult life. Sow stalls have been prohibited in the UK since 1999. The 1997 SVC report on pigs condemned sow stalls on welfare grounds.⁷ Pursuant to this report the 2001 EU Pigs Directive amended the 1991 Pigs Directive to prohibit sow

³ European Commission: Scientific Veterinary Committee, Animal Welfare Section. Report on the welfare of calves. 9 November 1995. Brussels, Belgium.

⁴ Council Directive 97/2/EC of 20 January 1997 amending Directive 91/629/EEC laying down minimum standards for the protection of calves. Official Journal L025, 28.01.1997 p. 0024-0025

⁵ Commission Decision 97/182/EC of 24 February 1997 amending the Annex to Directive 91/629/EEC laying down minimum standards for the protection of calves. Official Journal L076, 18.03.1997 p. 0030-0031.

⁶ Welfare of Farmed Animals (England) Regulations 2000 and similar legislation in the other parts of the UK.

⁷ European Commission: Scientific Veterinary Committee, Animal Welfare Section. Report on the welfare of intensively kept pigs, 30 September 1997.

stalls from 1 January 2013.⁸ Regrettably the Directive permits the keeping of sows in stalls for the first four weeks of pregnancy. One helpful aspect of the EU Directives on farmed animal welfare is that they tend to contain review clauses which afford an opportunity to try and secure strengthened provisions. The Pigs Directive is due for review in 2008 (although the European Commission has now scheduled this review for 2010); when the Directive is reviewed, it should be amended to prohibit the use of sow stalls throughout the pregnancy as is the case under UK legislation.

In a similar system, sows are tethered by a chain to the ground or the stall. The tethering of sows has been prohibited in the EU since 1 January 2006.⁹

The food provided for pregnant sows is usually much less than that which they would choose to consume so the animals are hungry throughout much of their lives.¹⁰ The 2001 amendments to the 1991 Pigs Directive seek to address this problem by stipulating that “to satisfy their hunger and given the need to chew, all ... pregnant sows ... must be given a sufficient quantity of bulky or high-fibre food as well as high-energy food”.

So far we have been looking at the breeding sows whose role is to produce large numbers of piglets. It is these piglets that provide meat; they are fattened to the age of 5-6 months when they are slaughtered. Many of these fattening pigs are factory farmed both in the UK and the rest of the EU; indeed in most EU Member States nearly all are factory farmed. They are kept in overcrowded, barren, often unhygienic sheds. They live on bare concrete or slatted floors with no straw or other bedding. In these bleak conditions there is nothing for these lively young creatures to do. Bored and frustrated, they begin to chew and bite the only other ‘thing’ in their pens: the tails of other pigs. To prevent tail-biting farmers slice off (dock) part of the piglet’s tail.

The 2001 amendments to the 1991 Pigs Directive contain two provisions designed to partially address these problems:

- they require that, to enable proper investigation and manipulation activities, all pigs must have permanent access to a sufficient quantity of material such as straw, hay, wood, sawdust, mushroom compost or peat.

⁸ Council Directive 2001/88/EC of 23 October 2001 amending Directive 91/630/EEC laying down minimum standards for the protection of pigs. Official Journal L316, 01.12.2001 p. 0001-0004.

⁹ Council Directive 91/630/EEC laying down minimum standards for the protection of pigs. Official Journal L340, 11.12.1991 p. 0033-0038.

¹⁰ SVC report on pigs, *supra* n. 7.

- they prohibit routine tail docking and stipulate that this procedure may only be carried out once other measures to prevent tail biting, such as improving the pigs' conditions, have been taken.

Unfortunately, in most Member States including the UK, many farmers are ignoring these provisions which, if complied with, could produce real welfare benefits.

Battery cages

The 1999 Laying Hens Directive bans conventional battery cages for egg laying hens from 2012.¹¹ A number of Member States and some farmers wish to see a lengthy postponement of the ban on battery cages. Compassion in World Farming (CIWF) is totally opposed to any postponement, believing that the ban must come into force on 1 January 2012, the date set by the Directive.

Unfortunately, the Directive permits the use of 'enriched' cages. The floor space and height required by the Directive in 'enriched' cages is only slightly greater than that required in conventional battery cages. The Directive requires 'enriched' cages to provide a perch, a nest box and a littered area, which are largely inadequate to meet the hens' behavioural needs. CIWF believes that 'enriched' cages fail to overcome many of the welfare problems inherent in the battery cage system.

Meat chickens

Broilers are by far the most numerous of Europe's farmed species; over 5 billion are reared each year in the EU (broilers are the chickens reared for meat). Despite this, until recently there was no species specific EU Directive to protect broiler welfare on-farm. However, in May 2007 the EU agreed a Directive on broiler welfare.¹² The Directive is extremely disappointing and fails to tackle the core welfare problems of industrial broiler production. This is because a number of Member States in the south and in central and eastern Europe wanted either no Directive or one so weak that it would deliver no worthwhile welfare benefits.

General Farm Animals Directive

¹¹ Council Directive 1999/74/EC of 19 July 1999 laying down minimum standards for the protection of laying hens. Official Journal L203, 03.08.1999 p. 0053-0057.

¹² Council Directive laying down minimum rules for the protection of chickens kept for meat production. Not yet published in the Official Journal.

In 1998 the EU adopted what is commonly referred to as the 'General Farm Animals Directive' which contains provisions that apply to all farmed animals.¹³ One fundamental Article requires EU Member States to:

"make provision to ensure that the owners or keepers take all reasonable steps to ensure the welfare of animals under their care and to ensure that those animals are not caused any unnecessary pain, suffering or injury."

Another key provision stipulates that:

"The freedom of movement of an animal, having regard to its species and in accordance with established experience and scientific knowledge, must not be restricted in such a way as to cause it unnecessary suffering or injury.

Where an animal is continuously or regularly tethered or confined, it must be given the space appropriate to its physiological and ethological needs in accordance with established experience and scientific knowledge."

These provisions could arguably be used to challenge the legality of certain industrial farming practices although the fact that many of the 1998 Directive's provisions are couched in broad terms does present difficulties. Indeed, a pessimistic view is that the Directive consists mainly of legislative rhetoric designed to give the appearance of addressing welfare concerns while in practice allowing industrial farming to continue without hindrance.

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¹³ Council Directive 95/29/EC concerning the protection of animals kept for farming purposes. Official Journal L221, 08.08.1998 p. 0023-0027.