



The Scottish Parliament  
Pàrlamaid na h-Alba

Published 15 June 2017  
SP Paper 172  
8th Report (Session 5) (Session 5)

**Environment, Climate Change and Land Reform  
Committee**  
**Comataidh Atharrachadh Clìomaid is Ath-leasachaidh  
Fearann**

**The draft Prohibited Procedures on  
Protected Animals (Exemptions)  
(Scotland) Regulations 2017**



**Published in Scotland by the Scottish Parliamentary Corporate Body.**

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# Contents

<b>Introduction</b>	<b>1</b>
<b>Background to the Regulations</b>	<b>2</b>
Development of proposals to make an exception to the ban on tail shortening in Scotland	2
Scottish Government consultation	3
<b>Committee consideration of the Regulations</b>	<b>4</b>
Delegated Powers and Law Reform Committee	4
Environment, Climate Change and Land Reform Committee	4
Written evidence	4
Oral evidence	4
<b>Conclusions</b>	<b>6</b>

# Environment, Climate Change and Land Reform Committee

To consider and report on matters falling within the responsibility of the Cabinet Secretary for Environment, Climate Change and Land Reform.



<http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/environment-committee.aspx>



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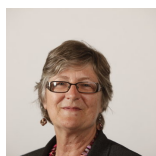
# Committee Membership



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# Introduction

1. Tail shortening of dogs has been prohibited in Scotland since 2007 under [section 20 of the Animal Health and Welfare \(Scotland\) Act 2006](#). It is also an offence to take a protected animal from Scotland to a different regulatory regime for the purpose of having its tail shortened.
2. The draft [Prohibited Procedures on Protected Animals \(Exemptions\) \(Scotland\) Amendment Regulations 2017](#) would permit the shortening, by up to a third and by a vet, of the tails of spaniel and hunt point retriever puppies where a vet believes they are likely to be used as a working dog and possibly risk serious tail injury in later life.
3. The draft Scottish Statutory Instrument (SSI) was laid on 12 May 2017 and was designated to the Environment, Climate Change and Land Reform Committee for scrutiny. The Committee had 40 days to consider the instrument.

# Background to the Regulations

## Development of proposals to make an exception to the ban on tail shortening in Scotland

4. After the Animal Health and Welfare (Scotland) Act 2006 came into force there were calls from groups involved with working dogs for an exemption to allow the shortening of tails of certain working dogs in Scotland. Campaigners said that spaniels and hunt point retriever breeds were susceptible to a high incidence of tail injuries, which caused more suffering than shortening their tails within a few days of birth.
5. Different approaches have been taken to tail shortening across the rest of the United Kingdom. In England and Wales, [section 6 of the Animal Welfare Act 2006](#) makes tail shortening an offence but does allow for an exemption for shortening the tails of certain working dogs. Northern Ireland also permits, [under section 6 of the Welfare of Animals \(Northern Ireland\) Act 2011](#), an exemption to a ban on tail shortening of breeds used for hunting, pointing or retrieving if intended to be used for that work.
6. In 2013 the Scottish Government funded two studies by the University of Glasgow ([Lederer et al](#) and [Cameron et al](#)) to look at the incidence of tail injury in working dogs who had not had their tails shortened. Both studies concluded that the tail shortening of spaniels and hunt point retrievers may be appropriate, with Lederer et al writing that it would “significantly decrease the risk of tail injury sustained while working”.
7. Following publication of the research, in April 2014 the [Scottish Government announced](#) that it had asked key organisations with an interest in the issue to consider the findings and comment on whether they merited consideration of a possible exemption to the ban on tail shortening for specific working dogs. A [letter to the then Rural Affairs, Climate Change and Environment Committee](#) from the Cabinet Secretary for Rural Affairs, Food and the Environment in October 2015 summarised the responses of organisations consulted. The Cabinet Secretary concluded by saying that—

” Therefore, on the basis of the arguments presented, and provided effective safeguards could be designed, the Scottish Government would be willing to formally consult to ascertain whether this proposed course of action – a tightly defined exemption regime – would be supported or whether the current position of an outright ban should be maintained.

Source: Cabinet Secretary for Rural Affairs, Food and the Environment. [Letter to the Rural Affairs, Climate Change and Environment Committee](#) , 26 October 2015.
8. For further information on this issue, the Scottish Parliament Information Centre (SPICe) has [published a briefing on tail shortening](#).

## Scottish Government consultation

9. The Scottish Government published a [consultation paper](#) in February 2016 which sought views as to whether to introduce a tightly-defined exemption to Scotland's ban on tail shortening. An [analysis of the 906 responses](#) was published on 4 October 2016 and in summary said—
  - ” Those involved in field sports were generally supportive of introducing an exemption to the current total ban; those not involved in field sports – and particularly animal welfare organisations and members of the general public – tended to argue against a change in legislation.
  - ” Scottish Government. (2016) [Analysis of Responses to the Consultation on the Proposal to Permit tail Docking of Working Spaniels and Hunt Point Retrievers](#)
10. The analysis also summarised the key arguments for the introduction of a tightly defined exemption as—
  - the pain of tail docking for a puppy is much less than the pain caused by injury in later life;
  - docking is a less invasive and painful process than tail amputation(s) in later life; and
  - there is a high risk of tail injuries for undocked dogs.
11. The key arguments against a tightly defined exemption were summarised as—
  - tail docking causes distress and pain to a puppy;
  - the tail is an essential form of communication and expression for dogs; and
  - it cannot be assumed that a puppy will become a working dog.
12. All 906 submissions are also [available online](#).
13. On the same day as the consultation analysis was published, the Cabinet Secretary for Environment, Climate Change and Land Reform [wrote to the Committee](#) to announce that—
  - ” Scottish Ministers have agreed to permit the shortening, by up to a third in length, of the tails of Spaniel and Hunt Point Retriever puppies that are likely to be used for working in their later lives. This will allow individual veterinary surgeons to use their professional judgement about whether shortening the tail of a puppy is justified by the possible avoidance of more serious injury in later life.

Source: Cabinet Secretary for Environment, Climate Change and Land Reform. [Letter to the ECCLR Committee](#), 4 October 2016.



# Committee consideration of the Regulations

## Delegated Powers and Law Reform Committee

14. The [Delegated Powers and Law Reform \(DPLR\) Committee](#) has also scrutinised the instrument to ensure that it is within the Scottish Government's powers as well as whether it is accurate, achieves the intended policy and that the drafting is clear to the end user. In this case the DPLR Committee [raised no points in relation to the instrument](#).

## Environment, Climate Change and Land Reform Committee

### Written evidence

15. The Environment, Climate Change and Land Reform (ECCLR) Committee issued a [call for written evidence](#) on the instrument and [received a high number of responses](#). **Please note that a number of the submissions contain images which some might find distressing.**

### Oral evidence

16. The ECCLR Committee took evidence on the instrument at its meeting on 30 May 2017 from [a range of stakeholders](#). The full transcript of that session is [available here](#).
17. At its meeting on 13 June 2017 the Committee took evidence from the Cabinet Secretary for Environment, Climate Change and Land Reform on the instrument before considering the Scottish Government's [motion to approve](#) the Regulations. During the debate on the motion, some Members raised concerns in relation to the Regulations, including—
  - a lack of robust scientific evidence, such as:
    - the possible wider causes of tail injuries in working dogs;
    - the degree of success of similar exemptions in England, Wales and Northern Ireland; and
    - the scale of the issue in Scotland;
  - a disproportionate number of puppies which would need to have their tails shortened in order to prevent injury in later life;
  - the potential impact on a dog's behaviour and communication; and

- possible alternatives to tail shortening not being explored.
18. Other Members were nevertheless content with the proposed exemption, believing that—
- there is a problem that needs addressed;
  - there is a lack of alternative solutions;
  - the Regulations are more targeted at dogs at risk of injury in later life than similar legislation in the rest of the UK; and
  - it is a proportionate response to the problem.
19. Comments were also made that work should be done to ensure that vets have a clear understanding of the exemption and suitable training be provided to vets who may not have experience of carrying out the procedure.

# Conclusions

20. The ECCLR Committee, by division<sup>i</sup>, recommends to Parliament that the Prohibited Procedures on Protected Animals (Exemptions) (Scotland) Regulations 2017 [draft] be approved.

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<sup>i</sup> For: 7, Against: 3, Abstentions: 0.

