

New Zealand Animal Law Association



Submission on the Code of Welfare for Dairy Cattle and regulations recommendations

30 June 2022



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National Animal Welfare Advisory Committee
Animal Welfare
Ministry for Primary Industries
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Tēnā koutou,

PROPOSED CODE OF WELFARE FOR DAIRY CATTLE AND ASSOCIATED REGULATIONS

1. This submission sets out the New Zealand Animal Law Association's (NZALA) response to the National Animal Welfare Advisory Committee (NAWAC) consultation on the proposed amendments to the Code of Welfare for Dairy Cattle (the Code) and associated recommendations for regulations.

General comments

1. Generally, we find that the minimum standards in the codes of welfare lack clarity and are vague because of NAWAC's outcomes-based approach to their drafting. After their promulgation, the length of time for the codes to be reviewed means they fall well behind advances in best practices and scientific knowledge. This makes many of them outdated and risks the standards they set falling below the obligations under section 10 of the Animal Welfare Act 1999 (Act). It should be a priority for the Ministry of Primary Industries (MPI) to replace the codes of welfare with an evolved system for developing guidance and setting updated enforceable animal welfare benchmarks.
2. We are concerned about delays to date in developing the proposed regulations and request that NAWAC and MPI advise on the expected timeframes for the amended Code and the regulations proposed in this consultation being finalised and coming into force.
3. Finally, there is significant lack of transparency about the process for reviewing the codes of welfare along with developing and proposing regulations. Due to the lack of enforceability of the codes, regulations have become the preferred mechanism to ensure animal welfare compliance by default. The level of industry involvement in the development of many of the codes compared with at a distance engagement with animal advocacy organisations leads to concerns about real or perceived conflicts of interest. This practice will only result in calls for independent oversight from a Commissioner for animals increasing.

Proposed Code

4. The proposed amendments to the Code provide for improved animal welfare outcomes than previous versions. We are pleased that many of the amendments have directly addressed a number of issues raised in NZALA's early feedback on the review of the Code, and as covered

in chapter 4 of NZALA's report on Farmed Animal Welfare Law in New Zealand.¹ The report highlights serious concerns with inconsistencies between the Act and the codes of welfare issued under it, particularly in relation to farming practices that cause animal welfare harm.

5. However, we consider that many of the proposed minimum standards still fall short of welfare obligations required under section 10 of the Act. Many of these types of minimum safeguards are contemplated in the Code but rather than being explicitly set, are instead found in the example indicators or best practice recommendations. In most of these instances it is entirely appropriate to state a minimum standard that places a limit that would ensure the desirable welfare outcomes are achieved. NAWAC takes this approach with only a small number of the minimum standards within the Code, thereby providing increased certainty about animal welfare requirements in those areas.

Inconsistencies with the Act

6. In our feedback to NAWAC on the current code in 2020, NZALA expressed our concerns that a number of standards set by the code are, or may be, inconsistent with the Act. Although we see some significant improvements in the proposed Code, we remain concerned about numerous animal welfare issues that should be regulated that we list below. We reiterate that NAWAC should give particular consideration to the below list and whether they should be regulated under section 183A(2) of the Act:
 - Inadequate provision for the expression of dairy cows' behavioural needs (e.g. playing, grooming, maternal behaviours and foraging to explore, consume and select feed);
 - Inadequate provisions relating to stocking density of dairy cattle;
 - Inadequate provision for access to shelter in both summer and winter conditions;
 - Inadequate provision for extreme weather events on dairy farms;
 - Use of off-paddock facilities and lack of access to pasture compromising animal health and frustrating the behavioural needs of dairy cattle;
 - Practices associated with winter-grazing;
 - Inadequate provision for drying off in dairy cattle;
 - Inadequate provision for preventing lameness in dairy cattle, or other health issues such as Johne's disease and broken shoulders; and
 - Selective breeding of dairy cattle for high milk yield.

We expand with further comment on these matters below, and where relevant in the questions section that follow. In instances we repeat some of the points made in our Farmed Animal Welfare Law in New Zealand report.²

Stocking densities

7. While the importance of appropriate stocking densities is recognised throughout the Code, there is no provision outlining what these should be in relation to dairy cattle. There does not seem to be any apparent reason why a calculation like the one used for determining the space required for pigs could not be used in relation to dairy cattle, accounting for their variation in size.

¹ NZALA *Farmed Animal Welfare Law in New Zealand: Investigating the Gap Between the Animal Welfare Act 1999 and its Delegated Legislation*, February 2021.

² As above, n 1.

8. High stocking densities have a range of welfare implications for dairy cattle. For example, cows “spend less time lying as stocking density increases”³ and high stocking densities “can lead to increased levels of aggression.” DairyNZ have identified further issues with high stocking rates specifically: reduced air quality; impaired vision and observation by staff; increased risk of spreading infectious diseases; impaired observation of heat detection; poor quality lying area; and impaired access to feed and water.⁴
9. The failure to address stocking densities explicitly in the Code, deprives farmers of clear guidance as to what is acceptable and may allow for a huge variety in stocking densities.

Lameness

10. The Code addresses lameness, as well as contributing factors to lameness within a number of recommended best practice sections, and it recognises that lameness is amongst conditions which are painful and *warrant immediate and effective treatment*, yet no minimum standards are provided.
11. Knight found in 2020 that the identification and treatment of lameness on New Zealand farms appears inadequate:⁵

Large-scale, prospective studies assessing lameness prevalence in New Zealand are scarce; however, Fabian et al. locomotion scored 23,949 cows on 59 farms, using the DairyCo mobility scoring system to estimate lameness prevalence. The mean lameness prevalence was 8.3% (median, 6.7%; range, 1.2%– 36%). In contrast, mean lameness prevalence as estimated by farmers was 2.3% (median, 1.4%; range, 0–20%). Hence, only 27.3% (range 0–95%) of cows with reduced mobility were identified as such by New Zealand farmers – a detection rate broadly similar to that of farmers in the US (Espejo et al.) and UK (Leach et al.). Hence, identification and treatment in the case of this very important welfare problem presently appears inadequate.

12. The failure of the Code to address lameness in the minimum standard’s is highly problematic given that lameness is clearly contrary to a cow’s physical and health needs, and that lameness has been described as the ‘most important animal welfare problem for the dairy cow’ (FAWC, Report on the Welfare).⁶

Broken Shoulders

13. NAWAC identified in 2017 that there is an issue with broken shoulders in dairy cattle wherein “anecdotally, at times, 10% of a group can be affected. This remains an issue, with NAWAC’s Work Programme identifying “fractures in dairy cattle” as an animal welfare issue under management.⁷ Dr Brent Neal (BVSc MANZCVS Veterinary Pharmacology) describes this as a

³ National Animal Welfare Advisory Committee Report to accompany an amendment to the code of welfare for dairy cattle (Ministry for Primary Industries, 31 October 2019) at 2.

⁴ Dairy NZ *Dairy cow housing* (Dairy NZ Limited and Ministry for Primary Industries, 2019) at 10.

⁵ Andrew Knight “Should New Zealand do more to uphold animal welfare?” (2020) 114 *Animal Studies Journal* 9(1).

⁶ Above n 5.

⁷ National Animal Welfare Advisory Committee *NAWAC Work Programme* (Ministry for Primary Industries, 16 November 2006).

“catastrophic injury for the animal involved [requiring] immediate euthanasia on welfare grounds.”⁸

14. Further research is being conducted on this issue with PhD student Michaela Gibson identifying that the fractures “affect at least 4% of dairy farms and approximately 5000 heifers are thought to be lost to the condition.”⁹ She identifies two types of fractures. The first is likely a result of the use of fodder beet as a winter crop in the South Island and consequent deficiency in phosphorous leading to poorly mineralised bones. The second relates to bones with osteoporosis, which may be linked to “intermittent periods of inadequate/unbalanced nutrition.”¹⁰ The disease has also been linked to low copper levels and veterinarians have recommended “conducting a few routine liver biopsies on young stock to assess the liver copper levels and set up an appropriate supplementation program.”¹¹
15. It is time now that this welfare issue is addressed in the Code to provide appropriate guidance on the minimum standards of care required for animals with this condition.

NAWAC’s PROPOSALS FOR CHANGES TO THE CODE: MINIMUM STANDARDS, EXAMPLE INDICATORS AND RECOMMENDED BEST PRACTICES

Electricity use to manage animal behaviour

Q.1. Do you support the proposed standard that electroimmobilisation devices must not be used? Why / why not?

16. NZALA fully supports the proposed minimum standards that would preclude the use of electromobilisation devices, and the proposal that this minimum standard should become a regulation.
17. Electromobilisation devices are designed and used in order to prevent animals from exhibiting normal responses to pain. NAWAC states on the current code that *electroimmobilisation devices do not block pain and may be aversive to animals*.¹² Their purpose is to temporarily paralyse the animal in order to allow handlers to carry out painful husbandry procedures. It has been previously stated by the Australian RSPCA that electroimmobilisation are not justifiable on welfare grounds.¹³
18. NAWAC has recommended that electromobilisation devices be declared restricted devices.¹⁴ This is fully supported by NZALA, which commends the addition of proposed Minimum Standard 4(o), recognising the harmful nature of electromobilisation devices.

Q.2. Do you support the proposed standard that electrified backing and top gates must not be used? Why / why not?

⁸ Franklin Vets “*Fractured shoulders in first calvers*” (14 June 2019) www.franklinvets.co.nz/2019/01/14/fractured-shoulders-in-first-calvers.

⁹ The AgriScencer “*Can measures of the cannon bone in cows predict the structure of the shoulder bone?*” (31 July 2019), www.agriscencer.com/post/bone-measures-and-humeral-fractures-in-dairy-heifers.

¹⁰ Above n 9.

¹¹ Franklin Vets, above n 8.

¹² Code of Welfare (Dairy Cattle) 2019 at 22.

¹³ RSPCA Australia “*What is electro-immobilisation and what impact does it have on animal welfare?*” (8 October 2019)

¹⁴ Code of Welfare (Dairy Cattle) 2019 at 22.

19. NZALA supports this proposed minimum standard. The use of electrified top and backing gates is unnecessary on account of other methods available such as non-electrified gates or manual movement of cattle using flags as an extension of the arm. The risk of distress, pain and injury to dairy cattle is high where the gates are used incorrectly or where there is a design malfunction. Electrified gates can also cause cattle to further constrict their spacing within the herd/group in order to avoid the gates which can lead to stress, bullying and lameness,¹⁵ as well as causing cattle to be improperly formed in the yards (i.e. with their heads up).

Q.3. Do you support the proposed standards on electroejaculation? Why / why not?

20. NZALA does not support the use of this technology as it has harmful welfare outcomes for bulls and risks causing unreasonable or unnecessary pain or distress to animals (as well as completely avoidable) which sits squarely within the offences under the Act. Accordingly, we oppose Minimum Standards 21 (d), (e), and (f). There is no benefit to the animal in this management practice. The recommended best practice should become the minimum standard: *Bulls must not have semen collected by electroejaculation.*

Body Condition Score

Q.6. Do you support the proposed changes to BCS requirements? Why / why not?

21. Regular body condition scoring is an important management tool. Body condition scoring is a useful method of visual and manual assessment to determine whether animals have been receiving adequate nutrition. The definition of physical, health and behavioural needs in the Act includes the provision of proper and sufficient food, and there is an obligation to ensure that these needs are met.
22. NZALA is pleased to see its submission points on the 2020 changes to the Code identifying the failings of the Code in respect of Body Condition Score have been adopted, set out below:

We note that 2 on the BCS is considered "emaciated" and as such it is more appropriate that urgent remedial action must be taken when the body condition falls below 4, as opposed to 3.

The standard does not provide for remedial action to be taken where an animal's body condition goes to 9 or above, which is considered "obese". As such it is appropriate that urgent remedial action must be taken where body condition goes to 8 or above on the BCS.

23. The Body Condition Scores in Minimum Standard 6(b) reflect these changes, are therefore supported by NZALA. However, in our view they should go further and include the example indicator for calving which is *Body condition score at calving is 5 for a cow and 5.5 for a heifer and no more than 7 for either, to minimise calving and metabolic problems.*

Q.7. Do you support the proposed example indicator for transport of end-of-life cattle with a BCS below 3.5? Why / why not?

¹⁵ See Dairy NZ image and description at www.dairynz.co.nz/milking/milking-efficiently/cow-flow/track-and-yard/yard-and-handling-facilities/backing-gates/ accessed 26 June 2022.

24. NZALA also supports the inclusion in the code that prevents end-of-life cattle with a Body Condition Score of 3.5 or below being transported unless under veterinary advice. But this should be a minimum standard rather than example indicator.

Intensive Winter Grazing

25. NZALA has jointly submitted on these questions in a separate submission from Greenpeace Aotearoa, SAFE, RNZSPCA, NZALA, Animals Aotearoa.
26. In addition, we restate below key points from NZALA's 2020 feedback to NAWAC on the review of the code. Winter grazing compromises animal welfare in a manner that frequently breaches the requirements of section 10 of the Act. Now is time to address these significant welfare issues in the new Code and new regulations.

The Winter Grazing Taskforce identified numerous animal welfare issues associated with winter grazing, including poor hoof health leading to claw lesions and lameness; increased risk of mastitis; birthing in mud; reduced lying time and poor quality of lying and sleep; reduced ability to ruminate; malnutrition and underfeeding; dehydration; cold and heat stress; lack of choice for lying site, fodder choice and social interactions; negative social interactions at high density (e.g. competition for feed, water and lying spaces); nutritional or metabolic problems; injury caused by fencing and equipment including fractures and broken legs due to mud; dental problems; and death resulting from misadventure, exposure or acute metabolic incidents.¹⁶

The Taskforce considered that, in relation to winter grazing, animals should never be giving birth on mud and that avoidable deaths in adverse weather events and mass mortality events on winter grazing systems should never happen.¹⁷ Additionally, cows should always be able to lie down comfortably (on a soft dry substrate) for as long as they want; there should always be an ability to readily move animals to shelter/dry land in adverse weather before harm occurs; there should be continuous convenient access to fresh, clean water; and animals should always have access to an adequately balanced diet "that keeps animals warm and doesn't cause acute or chronic malnutrition or metabolic problems." The Taskforce considered these actions to be "absolute bottom lines".¹⁸

The Taskforce provided 11 recommendations to address this issue, including the need to:¹⁹

lift standards of animal welfare outcomes in the codes of welfare and ensure specific standards are included to address known problems around food, water, mud, lying times (amount of lying and quality of lying) and shelter provision in relation to intensive winter grazing.

¹⁶ Winter Grazing Taskforce *Final report and recommendations: Improving Animal Welfare on Winter Grazing Systems* (Ministry for Primary Industries, November 2019) at 3.

¹⁷ Above n 16, at 6.

¹⁸ Above n 16, at 7.

¹⁹ Winter Grazing Taskforce *Final report and recommendations: Improving Animal Welfare on Winter Grazing Systems* (Ministry for Primary Industries, November 2019) at 8.

Further, the Taskforce recognised that current codes of welfare are:²⁰

not aligned with emerging scientific understandings of sentience. There are no enforceable regulations that directly address access to water, shelter and requirements for lying, depth of mud, and proper nutrition when winter grazing.

Shelter

Q.11. Do you support the proposed amendments to the standard relating to the provision of shade or other means to minimise the risk of heat stress? Why / why not?

Q.12. Do you support the proposed amendments to the standard relating to the provision of shelter or other means to minimise the risk of cold stress? Why / why not?

27. NZALA is pleased to see NAWAC addressing the provision of shelter to minimise the risk of both heat stress and cold stress, however as currently drafted there is no clear requirement for shelter in the proposed Minimum Standards 9(a) and (b) as they allow for shade/ shelter *or other means*. These minimum standards need to be amended to be made more explicit that shade and shelter is a bottom line as required by s4 of the Act.
28. Providing dairy cattle with access to shelter, which is needed in both hot and cold conditions, is essential for the welfare of the animals.
29. Access to shelter on hot, rainy, cold, or windy days is important for dairy cows. Legrand et al. found that dairy cattle prefer pasture at night, and access to indoor housing during the day when temperature and humidity increase.²¹
30. Other studies have found that cattle will change location in response to their environment;²² that cattle prefer to use areas protected from wind in winter;²³ and that in hot conditions cattle will seek shade.²⁴
31. In the New Zealand context, research by Karin Schutz and others at AgResearch found that “dairy cattle are highly motivated to use shade in warm weather and consider shade a valuable resource that they are willing to compete for.”²⁵ This research also found that shade use increases with higher air temperature and solar radiation; that the provision of shade in late lactation improves milk production; that shade use is more than twice as high when all cows could access the shade simultaneously.

²⁰ Above n 19, at 5.

²¹ AL Legrand, MAG von Keyserlingk, and D.M. Weary “Preference and Usage of Pasture Versus Free-stall Housing by Lactating Dairy Cattle” (2009) 92 Journal of Dairy Science 3651.

²² I Redbo, A Ehrlemark, and P Redbo-Torstensson “Behavioural responses to climatic demands of dairy heifers housed outdoors” (2001) 81 Can J Anim Sci 9 to 15.

²³ JM Beaver and BE Olson “Winter range use by cattle of different ages in southwestern Montana” (1997) 51 Journal Applied Animal Behaviour Science 1 to 13 and RL Senft and LR Rittenhouse “Factors influencing selection of resting sites by cattle on shortgrass steppe” (1985) 38 J Range Manage 295 to 299.

²⁴ JK Blackshaw and AW Blackshaw “Heat stress in cattle and the effect of shade on production and behaviour: A review” (1994) 34 Aust J Exp Agric 285 to 295; and M Vandenheede, B Nicks, R Shehi, B Canart, I Dufrasne, R Biston, and P Lecomte “Use of a shelter by grazing fattening bulls: Effect of climatic factors” (1995) 60 Anim Sci 60: 81 to 85.

²⁵ K Schütz “Heat Stress in Dairy Cattle” in Welfare Pulse (Ministry for Primary Industries, Issue 10, March 2012) at 10.

32. The current Code does not provide for these needs and is contrary to the requirements in the Act to provide adequate shelter in the definition of “physical, health and behavioural needs” in relation to animals.²⁶
33. NZALA also agrees with NAWAC’s position that the act of providing such shelter protection has broader meaning than the traditional view of natural shelter in the pastoral farming landscape, and that appropriate provision of artificial means to mitigate thermal stress can have equivalent or better animal welfare outcomes.
34. In its Farmed Animals Report, NZALA identified that shade, or shelter could be many things, including that:²⁷

shelter could be a shed at the cold end or something, the other side of the hill, a gully or the low part of the farm that is protected from the wind...[or] trees

..

shelter could include hedgerows, trees, gullies, flaxes, vegetation clumps, tussocks, rocks, woolsheds or rushes

35. By leaving open the way in which shelter is provided, it enables a range of strategies to be adopted to provide for the needs of the animal on farm.

Q. 13. Do you support the proposed standard relating to photosensitive animals? Why / why not?

36. NZALA supports the proposed minimum standard to ensure the welfare of photosensitive animals are to be provided protection from exposure to direct sunlight.

Emerging technologies

Q.15. Do you support the proposed amendment to the standard for farm facilities, equipment and technologies? Why / why not?

Q.16. Do you support the proposed standard for providing dairy cattle that do not adapt to new technologies with alternative management? Why / why not?

37. NZALA does not support the proposed amendment as it leaves ambiguity about the use of technologies utilising training techniques designed to discipline animals with punishment including painful electric shocks. The recommended best practice 10b *aversive techniques for training animals to new technologies should not be used* should become a new minimum standard.
38. NZALA supports proposed standard for providing dairy cattle that do not adapt to new technologies with alternative management.

Provision of lying surfaces and limit for time on hard surfaces in off-paddock facilities

Q.19. Do you support the proposed revision of the standard for the provision of appropriate lying areas? Why / why not?

²⁶ Animal Welfare Act 1999, s 4(b).

²⁷ New Zealand Animal Law Association, above n 1 at 83.

39. NZALA supports the proposed revision of Minimum Standard 11(c), and in particular the time limits on keeping dairy cattle in off-paddock facilities.
40. Off-paddock facilities impose confinement restrictions on dairy cattle. Confinement increases the risk of greater exposure to social stress, increased risk of disease and restriction of cows' behavioural needs and repertoire if not designed appropriately.²⁸
41. Frequent access to a suitable outdoor area is required to enable cattle to express a wide range of normal patterns of behaviour, including the ability to exercise on non-slip surfaces, freedom to choose where to lie down, space and soft surfaces for lying on a range of normal lying positions and space for grooming and for avoiding aggressive interactions.²⁹
42. Frequent pasturing has also been suggested to be an important management tool for improving the movement of cattle. Exercise promotes good health by improving blood circulation and developing the muscular system.³⁰ Walking is also an important behavioural requirement, with cows being motivated to walk.³¹
43. These are all important contributors to cow health and welfare, and indicate the importance of outdoor areas for the expression of behavioural needs. However, the standards still fall short of providing for normal patterns of behaviour. Access to pasture, not only an area with "a compressible soft surface" should be a mandatory requirement.
44. However, in emergency situations, where access to pasture is limited, NZALA agrees that the provision of soft surfaces should be a mandatory requirement in the Code. However, examples of what constitutes a soft compressible surface in an off-paddock environment would be useful.

Q21. Do you support the proposed standard relating to the use of river stones in off-paddock facilities? Why / why not?

45. As Laven and Lawrence recognised, standing on hard surfaces such as this for prolonged durations can increase the incidence of sole ulcers and digital dermatitis, leading to lameness.³² Standing on concrete or other hard surfaces for 12 to 14 hours a day, despite the impact this can have on the health of dairy cattle and the fact that this frustrates their behavioural need to lie down.
46. For this reason, and the constraint that river stones have on cow's ability to lie or walk, proposed Minimum Standard 11(b) is also supported.

Calf rearing

23. Do you support the proposed standard relating to offering colostrum/colostrum replacer

²⁸ National Animal Welfare Advisory Committee, 2019, *Report to accompany an amendment to the code of welfare for dairy cattle*, Ministry for Primary Industries, 4.

²⁹ Code of Welfare (Dairy Cattle) 2019 at 16.

³⁰ NAWAC Report, 8.

³¹ New Zealand Animal Law Association, above n 1 at 91.

³² RA Laven and KR Lawrence "An Evaluation of the Seasonality of Veterinary Treatments for Lameness in UK Dairy Cattle" (2006) 89(10) *Journal of Dairy Science* 3858.

after removal from the dam? Why / why not?

47. Minimum Standard No 12(a) provides that new-born calves must receive "sufficient" good quality colostrum. This is vague in nature. The requirements in the existing Recommended Best Practice should be moved into the Minimum Standard. This is appropriate given that the Code details the importance of calves receiving colostrum and how it can affect their ability to fight disease. To make the administering of colostrum optional in any way places the welfare of the calves at severe risk.
48. While NZALA supports the proposed new Minimum Standard 12(b) regarding the need to offer all newborn calves removed from their dam sufficient good quality colostrum/colostrum substitute as soon as possible but within 2 hours of being removed, to ensure that any calves that have not sucked their dam receive colostrum within 24 hours after birth, it suffers from the same criticisms as Minimum Standard 12(a). The Standard would benefit from stronger directive as to what constitutes "sufficient" good quality colostrum.

Q25. Do you support the proposed amendment to the standard on weaning? Why / why not?

49. NZALA supports the amendment to Minimum Standard 12(e) to provide a minimum weaning age. Providing that calves not be fully weaned off milk until a specific time (six weeks) provides certainty that the rumen has developed to allow the calf to digest solid feed, and improves on the vague standard that it replaced.

Selection and Breeding

Q.27. Do you support the proposed standard and recommended best practices on selection and breeding? Why / why not?

50. The proposed standard is too vague. The recommended best practices provide far better guidance and should be moved into the minimum standards. Including ensuring selection practices should not include unbalanced selection for increased productivity if it is known or thought to unreasonably compromise animal health or welfare, that selection of breed and sire for mating to a female should minimise the risk of birthing difficulties, that breeding selection should include qualities to improve the welfare of animals and that animal genotype should be appropriate for the environment.

End-of-life management

Q.29. Do you support the proposed standard on end-of-life management? Why / why not?

51. NZALA supports proposed Minimum Standard No.22 on end-of-life management on the basis that early culling decisions allow time to plan for and implement pre-transport preparation of the animals to reduce the welfare impacts of travel and minimise the risk of cows becoming recumbent either during the journey or in lairage after the journey.

Pre-transport selection and preparation

Q. 31. Do you support the proposed standard relating to time limits for holding dairy cattle off green feed prior to transport? Why / why not?

Q.32. Do you support the proposed standard on provision of water and roughage until the point of loading? Why / why not?

52. NZALA supports the proposed minimum standard relating to time limits holding dairy cattle off green feed prior to transport, and provision of water and roughage until the point of loading as these provide for the animal's physical health and behavioural needs and support an animal being adequately prepared and fit.

Q.33. Do you support the proposed standard on mineral supplementation? Why / why not?

53. NZALA supports the proposed minimum standard requiring that cows must receive sufficient and effective mineral supplementation prior to transport to prevent metabolic complications.

Q.34. Do you support the proposed standard on milking and the recommended best practice on dry-off prior to transport? Why / why not?

54. NZALA supports the proposed minimum standard stating that Lactating dairy cows transported to saleyards or slaughter must be milked as close to transport as possible. Although the clarity provided by the recommended best practice is a preferable bottom line that; *Cows are milked within 2 hours before transportation*. NAWAC states in the consultation paper for the proposed Code that *Lactation is a risk factor for reduced welfare during transport*. Management for known risk factors to an animal's welfare must take into account and minimise those risks.

Working relationship with a veterinarian

Q. 36. Do you support the proposed standard and example indicator for having a working relationship with a veterinarian? Why / why not?

55. NZALA supports the proposed minimum standard 24h that persons in charge of dairy cattle must have a working relationship with a practising large-animal veterinarian. The minimum standard 24d requires veterinary advice must be sought where, amongst other matters, there is serious injury and illness, persistent and chronic pain. It follows that it is requirement that there is a working relationship with a practising large-animal veterinarian.

Contingency planning

Q.39. Do you support the proposed standard on contingency planning?

56. NZALA supports the proposed minimum standard 26 that persons in charge of dairy cattle must have a documented contingency plan in place to address any anticipated adverse events which can negatively affect the welfare of the animals.

Welfare Assurance systems

Q. 41. Do you support this proposed standard on a Welfare Assurance System for dairy cattle?

57. NZALA supports the proposed minimum standard 27. Each commercial farm being required to have a fully documented and auditable quality assurance system that must be verified using performance-based audits, including corrective actions must be completed as required by the

audits on at least an annual basis is a welcome step towards better welfare outcomes and accountability.

PROPOSED REGULATIONS

Electro mobilisation

Q54: Do you agree with NAWAC's proposal to develop a regulation to prohibit the use of all electroimmobilisation devices?

1. NZALA supports this proposal. The use of electroimmobilisation is unnecessary given there are other methods available to manage cattle that are used by the majority of NZ farmers and do not inflict pain and distress to the animals.
2. The use of electroimmobilisation is inconsistent with the purpose of the Act and potentially constitutes an offence of ill-treating an animal, given electroimmobilisation consists of causing pain or distress that is unreasonable or unnecessary. The existing Code of Welfare already acknowledges that dairy cattle must be handled in a way to minimise risk of pain, injury or distress and further requires that only minimum force must be used when moving dairy cattle. As such it is entirely appropriate to prohibit the use of all electroimmobilisation devices.

Q55: Do you agree with NAWAC's recommendation for the regulation to come into effect without a transition period?

3. NZALA agrees that the amended regulation should come into effect without a transition period. The immediate effect of this regulation will not adversely impact farmers as it simply removes an unnecessary method of control over dairy cattle that is inconsistent with the provisions of the Act, and alternative methods are available.

Electrified top and backing gates

Q56: Do you agree with NAWAC's proposal to develop a regulation to prohibit the use of electrified top and backing gates used to move dairy cattle in dairy yards?

4. This proposal is supported. The use of electrified top and backing gates is unnecessary on account of other methods available such as non-electrified gates or manual movement of cattle using flags as an extension of the arm. The risk of distress, pain and injury to dairy cattle is high where the gates are used incorrectly or where there is a design malfunction. Electrified gates can also cause cattle to further constrict their spacing within the herd/group in order to avoid the gates which can lead to stress, bullying and lameness, as well as causing cattle to be improperly formed in the yards (i.e. with their heads up).

Q.57: Do you agree with NAWAC's recommendation for the regulation to come into effect without a transition period?

5. It is agreed that no transition period is required on account of the other methods available for moving dairy cattle and the lack of any adverse effects resulting from immediate effect. Farmers using electrified top and backing gates can continue to use the gates without the electrified element.

Intensive winter grazing

Q58 & 61: Do you agree with NAWAC on the proposed regulation for water provision for all animals in intensive winter grazing systems? Why/why not?

6. These questions are notably limited to the proposed regulations on water provision and lying space in intensive winter grazing systems. As such we respond to these with support below because these singular regulations in the absence of wider regulation, should none the less result in increased welfare outcomes. However, two regulations of this kind are a piecemeal approach to much wider range of welfare concerns and only partially go towards improving the welfare for animals kept under these systems. NZALA does not support taking a piecemeal approach to ensuring these issues are addressed. Further regulations are required to address the numerous animal welfare concerns as covered above in paragraph 26 and in our separate joint submission.
7. NZALA supports this proposal to introduce a regulation that provides for enforceable outcomes where the standard of care fall below this for provision of water. All animals must be provided with clean drinking water at all times. As such it should be a mandatory requirement that clean drinking water be available in grazing areas at all times.
8. It is agreed that no transitional period is required on account of the essential role that clean drinking water has in an animal's survival. Immediate effect will not have an adverse effect on the sector and to fail to meet this requirement would result in a breach of the obligations under section 10 of the Act to ensure the physical and health needs of an animal are met, and would constitute an offence under section 12(a) of the Act.

Q59 & 61: Do you agree with NAWAC on the proposed regulation for the provision of lying space for all cattle in intensive winter grazing systems? Why/why not?

9. This proposal is supported to introduce a regulation that provides for enforceable outcomes where the standard of care fall below these requirements. Section 10 of the Act requires the physical, health and behavioural needs of an animal to be met, and adequate lying space is essential for the welfare of dairy cattle. Cattle are under extra stress when in IWG systems as opposed to regular pasture and as such steps must be taken to protect their welfare and reduce unnecessary stress. Cows prefer to lie down and rest for between 8 to 13 hours per day and as such a failure to provide this opportunity will compromise the physical, health and behavioural needs of the cattle. It is crucial that such lying space is well-drained and compressible, and at least 10m³/animal is provided as it is accepted that cattle are more inclined to meet their behavioural needs of lying down when the surface is soft, dry and clean. This will also assist to avoid over-crowding which is accepted as having adverse effects on the herd e.g. hierarchy stress, bullying, lack of sleep and failure to lie in a comfortable and natural position.
10. No transitional period is required given the essentiality of the ability to lie down and rest to the welfare of dairy cattle and the fact that no adverse effect would result on the sector.

Q60 & 61: Do you agree with NAWAC on the proposed regulation for preventing calves born into unsuitable conditions? Why/why not?

11. NZALA entirely agrees that it is unacceptable that calves are born into surface water or mud, or indeed any other unsuitable conditions such as concrete. As such the proposed regulation is accepted, although our comments above relating to birthing at all during IWG apply. If the

proposed regulation proceeds in the form suggested by NAWAC, it is submitted that where calves are unexpectedly born while a cow is in IWG, that cow and calf should immediately be moved to a suitable surface/environment where it is safe to do so – also discussed above in relation to IWG.

12. No transitional period is required as the proposed regulation is essential to ensure the welfare of cattle and calves, and no adverse effect will result on the sector.

End of life cow transport

Q62: Do you agree with the regulation recommendation that end-of-life cattle to be transported to slaughter or saleyards must be adequately prepared for the intended journey as outlined above? Why/why not?

Q63: Do you agree that such a regulation should come into force without a transition period? Why/why not?

13. This regulation recommendation is agreed. The provision of food, water and mineral supplementation prior to transport, as well as the milking of lactating cows as close as possible to transport appear to meet the welfare requirements set out in section 10 of the Act.
14. No transitional period is required given the recommendations are minimum requirements from an animal welfare perspective and given this would not have an adverse effect on the sector.

Q64: Do you agree with the regulation recommendation for an 8-hour transport limit for end-of-life dairy cattle? Why/why not?

Q65: What do you consider an appropriate transition period for any such regulation, if any?

15. NZALA agrees that a time limit is required for the transport of end-of-life dairy cattle in order to ensure the physical, health and behavioural needs of the cattle are met, as per section 10 of the Act. Extended periods of transport deny dairy cattle the minimum required standard of welfare and increase the risk of recumbency as they are unable to drink clean water, access food, lie down to rest, seek out shelter and organise themselves in an appropriate manner according to social hierarchy. NZALA reaffirms the evidence reported by NAWAC in the Code of Welfare Evaluation Report which highlights the welfare compromise that results from extended periods of transportation.
16. NZALA submits that in order to ensure the welfare of dairy cattle under the Act, there should be no transition period, however we acknowledge that this may be impractical due to current transport lengths as a result of location of farms and slaughter premises. Any transition period should be as short as possible. Where extended transport times are permitted prior to the end of any transition period, we submit that it should be a requirement that a veterinarian inspect the dairy cattle to ensure they are fit for transport.

Q66: Do you agree with the regulation recommendation for a limit to lairage time (i.e. slaughter within 24 hours of last milking on farm)? Why/why not?

Q67: Do you agree that such a regulation should come into force without a transition period? Why/why not?

17. It is well acknowledged that the stress caused by lairage has a significant effect on the welfare of the animals concerned due to the denial of fulfilling their behavioural needs in particular. NZALA supports the recommendation of a limit to lairage time in order to reduce the impact on the welfare of dairy cattle. The limit should be as short as is possible.
18. No transitional period is required for this regulation to come into force as this will not have an adverse effect on the sector.

Q68: Do you agree with the regulation recommendation to restrict the transport of lactating end-of-life cattle across the Cook Strait? Why/why not?

Q69: What do you consider an appropriate transition period for any such regulation, if any?

19. NZALA agrees that transporting lactating end-of-life cattle across the Cook Strait should not be permitted due to the impact on the welfare of the cattle caused by additional travel time, unstable travel conditions, unfamiliar location and handlers, and increased number of loading events, resulting in further increased risk of injury and stress. Again, the requirements of section 10 of the Act are not met during travel across the Cook Strait.
20. We submit that no transitional period be provided according to the fact that travel across the Cook Strait is arguably the most treacherous and stressful travel route available in NZ and due to the location of slaughter premises on either side of the Cook Strait.

Q70: Are there any exemptions or defences that should apply to prevent worse welfare outcomes?

21. No exemptions or defences should apply as this creates an opportunity for excuse in failing to meet welfare requirements. The Act does not provide exemptions or defences in failing to meet welfare obligations and as such it is not appropriate and likely to be unlawful that these be provided in respect of dairy cattle.

Q71: Do you agree with the regulation recommendation to restrict transport of lactating end-of-life cattle to slaughter via saleyards? Why/why not?

Q72: What do you consider an appropriate transition period for any such regulation, if any?

22. NZALA agrees with this recommendation. As noted above with regard to travel across the Cook Strait, the additional travel time, unfamiliar locations and handlers, and increased number of loading events cause unnecessary and avoidable welfare compromise for the cattle. The behavioural needs of the cattle cannot be met by transport to slaughter via saleyards and as such is a breach of the obligations imposed by the Act .
23. No transitional period is required to facilitate this recommendation. If the cattle are travelling to slaughter there is no resulting adverse effect on the industry by failing to stop at saleyards

Heat Stress

Q73: Should this area be regulated? Why/why not?

24. It is agreed that this area should be regulated. It is common place in New Zealand for dairy farms to lack any form of shelter or shade which is a significant concern from the perspective

of dairy cattle health. It is acknowledged that if dairy cattle cannot obtain relief from heat, their body temperature will rise causing hyperthermia and they are at risk of death. There are currently no shelter or shade requirements imposed on dairy farmers, only recommended best practices. NZALA submits that it is not possible to adequately meet the welfare requirements of dairy cattle imposed by section 10 of the Act if there is no requirement for shelter or shade, and if this area is not regulated, no change will be effected. Regulation would provide a better level of protection for dairy cattle than what is currently provided and would work towards ensuring the legislative requirements for welfare are met as well as avoid inconsistency between the Code of Welfare and the Act.

Q74: How do you think this area could be regulated?

25. Availability of shelter and shade for dairy cattle should be a minimum requirement to ensure they have the opportunity to escape extreme heat and avoid the resulting stress and other serious risks. Extra steps should be required on days that exceed a certain temperature (e.g. 30°C), for example, activation of sprinklers or fans at the dairy to avoid risks posed to welfare resulting from heat loading such as aggression, decreased feed intake and in the worst case, death. A higher standard should be applied to particularly vulnerable cattle e.g. calves and injured or ill cattle, who should have access to shelter and shade at all times regardless of the temperature.

Q75: Is the current issue being managed adequately by codes of welfare or other instruments under this Act?

26. This issue is not being adequately managed by codes of welfare or other instruments as there are no explicit requirements to provide shelter or shade, only best practice recommendations. As noted above, there is inconsistency between the Code of Welfare for dairy cattle and the Act in this regard.

Q76: Are there any non-regulatory options that would be more effective?

27. Non-regulatory options would be insufficient to provide adequate protection of the welfare of dairy cattle. NZALA submits that regulations and minimum standards are required in this regard to ensure certainty of requirements and consistency with the Act in providing for the physical, health and behavioural needs of dairy cattle.

Q77: Do you think that, once sufficiently advanced, a HLI threshold could be used to regulate a cut-off for when shade or heat mitigation strategies must be provided? Why/why not?

28. A HLI that is specifically designed for New Zealand summer conditions is potentially feasible to ensure dairy cattle are protected from heat stress. However, NZALA submits that it is preferable for practical, minimum requirements to apply such as shelter and shade for all dairy cattle, and sprinklers and fans in the dairy, to ensure they have the ability to avoid heat stress before excess heat loading occurs. This would also be useful for providing protection during times of extreme low temperatures.

Electric Prodders

Q.78: Do you support the proposed review of regulation 48? Why/why not?

29. As with electroimmobilisation discussed above, NZALA agrees that the use of electric prodders on dairy cattle is unreasonable and unnecessary. As provided in the existing Code of Welfare, the risk of pain, injury and distress must be minimised and there is no doubt that electric

prodders indeed inflict pain and distress to animals and pose a risk of injury to the animal in question as well as other animals. Alternate methods are available that do not breach the requirements of the Act and create inconsistency within the Code of Welfare itself.

Painful Husbandry Procedures

Q.79: Do you support the proposed review of regulation 53? Why/why not?

30. Regulation 53 of the Animal Welfare (Care and Procedures) Regulations 2018 allows for dairy cattle under the age of 6 months old to be castrated without using local anaesthetic, despite a) the fact that such procedures are painful for dairy cattle and b) the recognised benefit of anaesthetics in reducing pain and stress responses in calves as a result of this procedure. The current wording is arbitrary in nature and inconsistent with other regulations and legislation. NZALA submits that castration without pain relief is an offence under the Act on account of the pain and distress caused to the animals being unreasonable and unnecessary as well as completely avoidable. Full pain relief should be required for castration of any animal no matter their age, and it is entirely appropriate and necessary that regulation 53 be reviewed.
31. It is the position of NZALA that regulation 53 be reviewed as it needs to be amended to provide a requirement for the use of local anaesthetic where dairy cattle under the age of 6 months are being castrated.

CONCLUSION

32. Having provided the above feedback, we look forward to continuing to work with NAWAC as it progresses its reviews of the Dairy Cattle Code, and the rest of the codes of welfare. We are happy to provide further comments on any of the above, answer any questions, or discuss next steps. Please do not hesitate to contact us if you have any queries regarding the above.

Nā mātou noa, nā / yours faithfully

The New Zealand Animal Law Association