

During the work on the white paper nr.12 (2002-2003) concerning animal husbandry and animal welfare, it was decided to create a new Act for animal welfare in order to ensure that the Norwegian legislation is developed in line with new knowledge about the welfare of animals. In the Soria Moria- declaration the Government stated that it will prioritise animal welfare. Significant developments in the knowledge regarding animals' abilities and needs combined with a desire from society that animals shall be treated in an ethical way formed the background for the proposal. The recognition that animals have an intrinsic value in addition to a useable value is a significant basis for the Act. The time is right for a modern Act which protects animals based on current knowledge and respect for the animal's interests.

At the same time as the proposal suggests standards which form the basis for good animal welfare, it should also be interpreted in the light of current sociological ethical standards for the keeping of animals, and will therefore be relevant over a long time perspective. We would also like to contribute at an international level to the work for improved animal welfare.

The consultation paper has been produced through cooperation between The Norwegian Ministry of Agriculture and Food and The Norwegian Ministry of Fisheries and Coastal affairs. The consultation paper with attachments has been made available in Norwegian on the internet at <http://www.regjeringen.no/nb/dep/lmd/dok/Horinger/Horingsdokumenter/2007/Horing--Ny-lov-om-dyrevelferd---alminne.html?id=489848>.

Any comments should be sent to The Norwegian Ministry of Agriculture and Food by **Monday 18.02.2008**.

The draft Act is also available in English.

Background

The new Act regarding animal welfare will replace the current Act from 1974, and applies, in common with the current Act, to both owned and wild animals. It is proposed to alter the name of the Act because the term "animal welfare" is a much wider term which also encourages the positive goal to ensure animals are content. "Animal protection" is considered to be part of the term "animal welfare".

The draft Act builds to a large extent upon new knowledge regarding animals' abilities, needs and identified goals in the white paper nr.12 (2002–2003) concerning animal husbandry and animal welfare. The Parliament asked the Government to follow up all of the identified goals and strategies in the report. The Parliament supported the principle that animals have an intrinsic value and that attention must be given to the animal's natural needs.

These will be the leading principles for our attitude towards animals and for animal husbandry in our society. The intention to encourage respect for animals represents a change from the interpretation of the current animal protection Act. By including

respect for animals in the intention of the Act, the Act is seen to encourage welfare and respect for the sake of the animals themselves. This is made clear through several of the Act's requirements, for example the ban on obscene activities with animals and the killing of animals as an independent element of entertainment and competition. The draft Act gives general principles for people's contact with animals whilst the detailed requirements for complying with the Act will be found in regulations. There has already been issued a number of regulations which will be continued. It will also be necessary to develop new regulations as a result of the new Act.

Certain features of the draft Act

A definition of which types of animal the Act will apply to will be continued. Certain adjustments have been made to the spectre of animals covered, based on new knowledge. A new principle contained within the Act is that the Act applies to other situations than a person's direct influence on the animal, which can affect animal welfare and respect for animals. This means that in certain situations it will be possible to set requirements related to products of animal origin.

Animals that are suffering need help. It is therefore necessary that everyone has an obligation to help the animal. The owners of animals have a specific responsibility, whilst others without specific responsibility for the animal have an obligation to help based on their ability and the actual situation. It will often be enough to alert the owner or an authority.

A general obligation to alert The Food Safety Authority, or the police, about animals who are suffering, is introduced in addition to the obligation to help an animal. One of the aims of the regulatory work has been to enable actions which will hinder such occurrences. The enforcement authorities will not discover such cases through ordinary enforcement. There is therefore a need for everyone to have an obligation to alert the enforcement authorities in order that non-compliance can be discovered, and that notices can be sent, so that the owner and the animal can be properly followed up and helped at the earliest possible opportunity.

Certain professions are exempted from the obligation to alert in cases where they are deemed to have a professional duty of confidentiality. Animal welfare cases are often a combination of health and social aspects in addition to the animal welfare issues. It is therefore necessary to have cooperation between all the parties involved, for example health personnel, animal welfare authorities and the agricultural network. It is therefore proposed to change The Health Personnel Act in order to make it clearer that health personnel under certain circumstances have the right to alert regarding animal welfare cases. An equivalent right to alert is contained in the Act concerning Public Administration for professional groups covered by that Act. It is therefore required that the recipients of the consultation paper give their views as to their understanding of the scope of the Act concerning Public Administration in this respect.

Knowledge is a prerequisite for the good treatment of animals. It is therefore proposed to introduce a requirement for necessary competence in order to take care of the animals' needs. Requirements already exist in several regulations, for competence with respect to the majority of production animals.

It is important that operational methods and technical equipment subject the animal to least possible strain. Based on this principle, a requirement is introduced in the draft Act concerning operational methods, equipment, and technical solutions and the need for testing and suitability based on animal welfare before the equipment is allowed for normal use.

In addition it is proposed to introduce a general ban against surgical incision or removal of body parts unless it is necessary with respect to the health of the animal. This shall not hinder justifiable identification marking, castration or removal of horns based on animal welfare or specific operational needs.

It is also proposed to establish a legal basis for the possibility of requiring or banning the identification marking of animals, in addition to requiring the registration of marked animals. Such requirements will be contained in regulations. This will be particularly relevant for pet animals.

The killing of animals must take place in a justifiable manner and with the help of suitable equipment. This is the case both for animals in captivity and the killing of wild animals. The requirement for stunning of animals in captivity before or at the same time as killing is upheld.

We wish to strengthen the weighting of the animal's interests when it is used in testing and educational situations. An important change in the Act is the clarification of the principle of reduction, replacement and refinement (the three Rs) in the use of animals for testing, in connection with well established principles within the research community. In addition, some animals which have earlier fallen outside the scope of the legislation will now fall within the definition of animals for testing, and will therefore be covered by the Acts requirements. This will contribute to a more accurate picture of the number of animals being used yearly for testing whilst in addition provide the best possible environment irrespective of the way the animal is used or planned to be used.

The draft Act clarifies the animal keeper's obligations to protect animals against wild predators and other dangers. The approved wild predator policy will in certain cases demand action to limit the animals' suffering based on the danger of attacks on grazing farm animals by wild predator. It is therefore proposed to regulate the possibility for The Food Safety Authority to issue sanctions regarding grazing restrictions in order to protect farm animals from attack by wild predators. It is at the same time important to provide reassurance and transparency for businesses which have grazing animals in areas where wild predators can be found.

If farm animals are unable to use wild grazing due to the overwhelming danger of predator attacks, it will be necessary to impose significant grazing restrictions. Required actions may include collection of animals or a ban from releasing animals for grazing. In the case of such significant orders concerning grazing restrictions due to wild predator attack, it is proposed to give the owner of the animal the right to claim economical compensation based on ongoing expenses accrued as a result of the imposed action. The compensation will be paid using standard rates. The compensation is proposed to apply from the day the order enters into force. Only orders with a validity of up to one week can be issued without the right to compensation setting in. More specific regulations regarding this provision, including the conditions for right to compensation and the size of the compensation will be described in a regulation. The compensation provision will be designed not to conflict between the incentive to take preventative action and the animal owner's responsibility to protect farm animals against attack from wild predators. These principles are in accordance with the provision for compensation which was issued for the 2007 grazing season. It should be noted that the provision for compensation is subject to funds being made available by the central government.

In a similar way to the current animal protection act, the draft animal welfare act will apply to wild animals. The supervision of wild animals is today shared between several ministries. The Norwegian Ministry of the Environment has the responsibility for the supervision of the wild population and its habitat, whereas supervision of animal welfare is, in the case of land animals, designated to The Norwegian Ministry of Agriculture and Food, and The Norwegian Ministry of Fisheries and Coastal Affairs in the case of aquatic animals. The draft Act's general principles are made applicable to wild animals at the same time as it gives the opportunity to issue specific regulations regarding, for example, hunting, catching, fishing, trapping and keeping wild animals.

A possible way of preventing continual breaches of the regulation and hinder more pain is the proposal to give the Norwegian Food Safety Authority the right to issue orders against keeping and contact with animals. Such orders should be issued to people who seriously or on several occasions have breached the Act.

The supervision of animal protection under animal protection legislation is the responsibility of the Norwegian Food Safety Authority and local animal welfare committees. In addition there is a committee which supervises regulations concerning animal testing. The ministries do not have any concrete plans regarding changes to the organisation of the control authorities but refer to the consultation document for both arguments for continuation, and arguments for changes to the current supervision model. The ministries will, on the basis of response to this consultation paper, evaluate how the control authorities can be organised.