

**Consultation on the Commission Proposal
to Replace Directive 93/119 with a Regulation
on the Protection of Animals at the Time of Killing**

Response from the Scottish Council of Jewish Communities

[Click here](#) to read the Scottish Government consultation paper

The Scottish Council of Jewish Communities welcomes the opportunity to comment on the proposed Regulation. Jewish Law (*halachah*) requires meat consumed by Jewish people to be prepared by *shechitah*, which is the humane method of slaughter for food animals prescribed by *halachah*. This requirement is absolute, and observant Jews may not eat meat prepared by any other method. It is, therefore, extremely important to the Scottish Jewish community that *shechitah* should remain legal, and that the "Freedom to manifest one's religion"¹ should be upheld by all European institutions. This is the position of the Scottish Government, most recently stated by Richard Lochhead in response to Parliamentary Question S3W-8024, when he stated that "it would be perfectly legal for [slaughter without pre-stunning] to be used in Scottish slaughterhouses"². We are consequently shocked that a Scottish Government consultation document should, in a section of the consultation supposedly devoted to racial equality, juxtapose the humane Jewish tradition with the word "objectionable"³. This is offensive.

1. Will the proposals effectively address current concerns about the welfare of animals at killing?

Not entirely.

Stunning

We note that, as amended on 6 May 2009, Article 2(f) states that "stunning" means any intentionally induced process which causes loss of consciousness and sensibility, **including any process resulting in instantaneous death;**⁴ (our emphasis).

***Shechitah* conforms to that definition without the need for a derogation.** It is performed with a surgically sharp instrument (a *chalaif*), which must be perfectly smooth without the minutest notch or irregularity, and which must be carefully examined before and after the procedure to ensure this standard is maintained. The frontal structures at the neck, including the trachea, oesophagus, carotid arteries, and jugular veins are severed in a rapid and uninterrupted action that causes an immediate loss of blood pressure in the brain resulting in an immediate and irreversible loss of consciousness.

To understand the process following the *shechitah* incision it is necessary to consider blood flow. The major blood supply to an animal's brain is via the carotid arteries at the front of the neck that divide on each side into two vessels that pass to the middle and front of the brain. A smaller supply, less than 5% of the total blood flow to the brain, passes through the vertebral arteries. It has sometimes been suggested that because the *shechitah* incision

¹ Charter of Fundamental Rights of the European Union (Article 10) and European Convention on Human Rights (Article 9)

² <http://www.scottish.parliament.uk/Apps2/Business/PQA/default.aspx?pg=S3W-8024>

³ Annex A: Outcome of Impact Tests

⁴ <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P6-TA-2009-0369>

does not sever the vertebral arteries, an animal's brain will continue to receive sufficient blood to maintain consciousness for a significant period afterwards. However, research⁵ has demonstrated that once the carotid arteries have been severed, all blood flows in the direction of least resistance, and that, since the vertebral arteries are narrow, this is towards the cut. The residual minute vertebral artery flow is inadequate to maintain consciousness in the animal. (This will be obvious to anyone who has fainted due to a far less significant loss of blood pressure.)

In consequence, **the *shechitah* incision results in the immediate and irreversible cessation of consciousness and of sensibility to pain**, and therefore constitutes stunning as defined in Scottish law namely "any process which causes immediate loss of consciousness which lasts until death."⁶ and by the amended Article 2(f), "any intentionally induced process which causes loss of consciousness and sensibility, including any process resulting in instantaneous death".³ **Animals that are subject to *shechitah* are stunned by the same action that brings about their death.** They are killed at the same time, by the same action, so there is no opportunity for any partial recovery between stun and killing, as not infrequently occurs in abattoirs that pre-stun animals by means of captive bolt, electricity, or gas.

Shechitah should therefore be explicitly recognised for the purposes of Article 4.1 as a method of stunning, since it induces "a lack of consciousness and sensibility ... at the same time the animals are killed" (paragraph 20). Consequently, *shechitah* should be included in Table 4 of Annex 1 among "other methods" of stunning.

(In this context we note that the American "Humane Methods of Slaughter Act" does not apply a derogation for *shechitah*, but recognises it as a method of humane slaughter.⁷)

2. Do you agree a Regulation is the best way to ensure the application of common rules and standards throughout the EU?

We are generally supportive of the view that the legal instrument should be changed from a directive to a regulation in order to provide clarity and consistency throughout the EU. However, we are concerned that the Regulation permits slaughter for "religious rites" without prior stunning only by means of a derogation, and furthermore, that it permits member states to choose not to apply that derogation (Article 4(2)).

⁵ S Rosen. Physiological Insights Into Shechita. Veterinary Record, 2004; 154 (12 June): 759-65.

⁶ Statutory Instruments 1995 No. 731. The Welfare of Animals (Slaughter or Killing) Regulations 1995. (Available at: http://www.opsi.gov.uk/si/si1995/Uksi_19950731_en_1.htm)

⁷ Humane Methods of Slaughter Act (United States Congress)
http://www.law.cornell.edu/uscode/7/usc_sec_07_00001902----000-.html

§1902. Humane methods

No method of slaughtering or handling in connection with slaughtering shall be deemed to comply with the public policy of the United States unless it is humane. Either of the following two methods of slaughtering and handling are hereby found to be humane:

(a) in the case of cattle, calves, horses, mules, sheep, swine, and other livestock, all animals are rendered insensible to pain by a single blow or gunshot or an electrical, chemical or other means that is rapid and effective, before being shackled, hoisted, thrown, cast, or cut; or

(b) by slaughtering in accordance with the ritual requirements of the Jewish faith or any other religious faith that prescribes a method of slaughter whereby the animal suffers loss of consciousness by anemia of the brain caused by the simultaneous and instantaneous severance of the carotid arteries with a sharp instrument and handling in connection with such slaughtering.

3. Will the proposed Regulation have a positive or negative impact on the competitiveness of UK Food Business Operators, including their ability to compete effectively in export markets? What is your estimate of the magnitude of that impact?

Since Article 10 permits (by means of Article 12(2)(a) of Regulation (EC) 854/2004) the import of animal products from establishments that comply with relevant Community requirements, and since the proposed Regulation recognises *shechitah* as a permitted method of slaughter, meat prepared in this way should not generally be subject to import or export restrictions. However, although it has been banned in the UK for some time, the use of the casting pen is regarded by many Jewish communities as highly preferable. Its ban (Annex II 3.3), in conjunction with the requirement that third party countries "[comply] with relevant Community requirements" would appear to prevent the import of meat from animals slaughtered with the use of such pens. This would restrict those communities' right to manifest their religion under ECHR Article 9.

A ban on the use of the casting pen would also extend EU-wide the disability currently faced by UK companies seeking to export kosher meat.

4. Do you consider the outcome based approach will ensure the welfare of animals is adequately protected and can this approach be enforced effectively?

An outcome-based approach should achieve minimum standards for animal welfare whilst maintaining flexibility of practice. We cannot comment about enforcement.

5. What are the potential risks to animal welfare associated with a more flexible output based legislative approach and is the level of risk acceptable?

Since *shechitah* is strictly regulated by the rabbinic authorities it will maintain customary high standards of animal welfare with a consequently low level of risk regardless of legislative approach.

6. What is the nature and value of the business benefits that will flow from the output based approach and the ability to develop business level Standard Operating Procedures

We do not anticipate any business benefits. On the contrary, an EU-wide extension of the current UK ban on the casting pen will damage business by restricting import and export opportunities.

7. Do you support the Commission view that there is a need to increase the knowledge of personnel involved in slaughter / killing operations?

We agree that the training of personnel is of the utmost importance. Indeed, a *shochet* (person who carries out *shechitah*) must be an individual of exemplary character, who has studied intensively for many years and served a comprehensive apprenticeship that includes a thorough knowledge of animal anatomy and pathology as well as of the laws of *shechitah*. He must be licensed by the Chief Rabbi as well as by the Meat Hygiene Service, and, since the former licence lasts only for a period of only 12 months, every *shochet* must undergo an annual examination, and subsequently apply for renewal of his licence.

We also support the development of national reference centres to provide scientific and technical expertise and promote good practice, and we recommend that they should include experts on *shechitah* among their staff and advisers.

8. Taking account of the Commission's preferred approach, please indicate whether you consider the proposed Regulation will ensure all existing welfare protections are maintained and if not what changes are required to maintain current protections?

The proposed Regulation will permit all existing welfare protections to be maintained. However, it does not provide a guarantee that the high standard of welfare protection afforded by *shechitah* will be available throughout Europe since it permits countries not to apply the derogation (Article 4(2)).

9. Do you consider that the proposed transitional provisions will give businesses sufficient time to adapt to the proposed Regulation without incurring unreasonable additional costs?

The dual training and registration requirements for a *shochet* naturally already incurs additional cost, so duplication should, where possible, be avoided, in order to keep this extra expenditure to a minimum.

10. Are the welfare concerns such that either or both the transitional periods should be shorter?

No.

11. Do you consider Guidelines are an appropriate way to specify detailed technical provisions? Would you prefer to see additional technical provisions (e.g. stun to stick times, live shackling times) set out in legally binding EU implementing Regulations?

We prefer the less prescriptive outcome-based approach.

12. Could the benefits sought by the Commission be delivered in another way? If so how?

The incorporation of "*shechitah*" as a recognised method of stunning in Table 4 of Annex 1 would achieve the same objective as Article 4(1) without any diminution in animal welfare protections. This would also contribute to improved community relations by not making the Jewish community an exception as at present and as proposed in this Regulation. The implication of permitting *shechitah* only by means of a derogation is that it is inferior to other methods of slaughter, taking less account of animal welfare. By extension, it implies that Jewish people care little for animal welfare, and that they are, therefore, a cruel nation. From regarding people as behaving hatefully it is only a short step to regarding them as hateful, and it is no coincidence that *shechitah* was among the first activities banned by the Nazis.

Recent statistics provide evidence of an increase in antisemitic attitudes and behaviour throughout Europe, and anything that might be interpreted as European Parliament approval can only serve to exacerbate the situation. Since *shechitah* meets the Regulation

definition for stunning, it should be officially recognised as such, demonstrating not only that the European Parliament recognises *shechitah* as a humane method of slaughter, but, by extension, that Jewish people are humane.

13. What is the incidence of ineffective electrical stunning at present? Will the introduction of constant current equipment reduce or eliminate this problem and if so to what extent?

Since all kosher meat is produced by means of *shechitah* we do not have any direct experience of using electrical or other stunning procedures. However, a European Commission report of an investigation carried out in the UK during summer 2007 to "Assess the system of controls on animal welfare at slaughter and during killing"⁸ reported of non-kosher slaughter that "Out of nine animals observed in one slaughterhouse, one showed positive corneal reflex ...; movements were seen during hoisting of a second animal In the other slaughterhouse four out of eleven animals observed showed a positive corneal reflex after stunning or during bleeding. Paddling during bleeding was observed in five animals and mouth movements in four. ... All the above observations may lead to the conclusion that these animals were either ineffectively stunned or they were regaining consciousness during hoisting."

Research reported by the European Food Safety Authority (EFSA)⁹ indicates that the failure rate for penetrating captive bolt stunning in non-kosher slaughter of cattle may be as high as 6.6%, and for non-penetrating captive bolt stunning and electric stunning this can rise as high as 31%. The EFSA notes that "The author concludes that from the animal welfare point of view the method is unsatisfactory, due to the relative high failure rate."

We do not have any information as to whether the introduction of constant current equipment is likely to result in fewer incidences of mis-stunning.

We would point out that none of this applies to *shechitah*. Indeed if any aspect of *shechitah* was not correctly carried out, then the animal has to be discarded, All animals killed by *shechitah* are independently inspected by a second *shochet* so that any errors are discovered, and there is, therefore, no incentive for a *shochet* to cut corners.

14. What role do Animal Welfare Officers play in improving welfare and what are the financial costs and benefits?

Animal Welfare Officers could usefully assist in ensuring that live animals are handled and cared for appropriately prior to slaughter. Their training should include accurate and up-to-date information about *shechitah* using educational materials that have been approved by relevant religious authorities, and supplementary training should be available for those working in slaughterhouses that use *shechitah*.

⁸ European Commission Health & Consumer Protection Directorate-General. DG(SANCO)2007-7337. Final report of a mission carried out in the United Kingdom from 25 June to 3 July 2007 in order to assess the system of controls on animal welfare at slaughter and during killing. 2007. (Available at: http://ec.europa.eu/food/fvo/act_getPDF.cfm?PDF_ID=6462)

⁹ European Food Safety Authority. AHAW/04-027. Welfare aspects of animal stunning and killing methods. Scientific report of the scientific panel for animal health and welfare on a request from the Commission related to welfare aspects of animal stunning and killing methods. 2004. (Available at: [http://www.efsa.europa.eu/cs/BlobServer/Scientific Opinion/opinion_ahaw_02_ej45_stunning_report_v2_en_1.pdf?ssbinary=true](http://www.efsa.europa.eu/cs/BlobServer/Scientific%20Opinion/opinion_ahaw_02_ej45_stunning_report_v2_en_1.pdf?ssbinary=true))

15. What is the level / value of existing losses due to poor meat quality attributed to stress or physical damage caused during the slaughter process?

Currently very little meat prepared by *shechitah* is lost as a result of either stress or physical damage. However, the small loss attributable to physical damage could be reduced still further by the reintroduction into the UK of the casting pen.

16. What role will reducing stress associated with handling live animals play in improving meat quality and reducing losses?

A reduction in stress to animals awaiting slaughter must contribute both to improved meat quality and a reduction in losses. *Halachah* (Jewish Law) requires that pain and distress to animals at the time of slaughter must be kept at an absolute minimum. It is evident from studies conducted by Grandin and Regenstein,¹⁰ and Bager,¹¹ that animals are presented for *shechitah* in an unstressed condition. Grandin and Regenstein's study of over 3000 cattle reported that there is no reflex defence response suggestive of any sensation of pain either prior to *shechitah*, at the moment of the incision, or immediately afterwards. Indeed, they state that, although some animals "*were held so loosely by the head holder and rear pusher gate that they could have easily pulled away from the knife these animals made no attempt to pull away.*"

The Regulation does not require mechanical restraint for animals that are stunned. Since *shechitah* complies with the definition of stunning in Article 2(f), mechanical restraint ought not to be required. However, whilst mechanical restraint is acceptable for the slaughter of large animals, we have concerns about the proposal that it should also be required for the slaughter of poultry. In general, poultry slaughtered by means of *shechitah* are individually presented for slaughter, and thus restrained manually. An additional welfare benefit to this method is that the bird is in a calm and relaxed state at the time of slaughter. We contend that this is a more humane and certain procedure than shackling where fully conscious birds are hung upside down before immersion in the electric stun bath (a human being can adjust his grip if the bird moves; a machine cannot, which may result in injury to the bird). We therefore urge that the regulation should continue to permit manual restraint of poultry.

17. Are the assumptions set out at Annex A valid e.g. in relation to the time taken to complete tasks, the pay scales of those involved and the size of investments required? If not what assumptions should be used?

We do not have sufficient information to comment on this question.

¹⁰ T. Grandin, J.M. Regenstein. Religious slaughter and animal welfare: a discussion for meat scientists. Meat Focus International, 1994 (March): 115-123. (Available at: <http://www.grandin.com/ritual/kosher.slaugh.html>).

¹¹ A.E. Graaflus, D.J. Mellor, A. Taener, M.P. Updell. Onset of insensibility in calves : Effects of electroplectic seizure and exsanguination on the spontaneous electrocortical activity and indices of cerebral metabolism. Research in Veterinary Science, 1992; 52: 162-173.

18. What impact will each of the different aspects of the proposed Regulation have on the welfare of animals and what costs / benefits will be associated with each?

Permitting producers to prepare plant-level standard operating procedures will enable meat producers using *shechitah* to implement practices that promote the development of best practice.

The proposed examination of competence should be relevant to the work the applicant intends to undertake, and should include recognition of *shechitah* as a legitimate method of stunning since it is an "*intentionally induced process which causes loss of consciousness and sensibility*".

The ban on the casting pen will prevent those communities that require it from accessing meat prepared to the most stringent *halachic* requirements either locally or, if all imports are required to satisfy the same regulations, by import.

19. Do you consider the Commission proposals represent a proportionate approach to achieving improved welfare at slaughter or killing?

The proposed Regulation is not proportionate in its treatment of *shechitah* primarily due to its failure recognise that *shechitah* complies with its own definition of stunning, and the consequent failure to include *shechitah* in Table 4 of Annex 1.

Moreover, the ability not to apply the derogation in article 4(2) will cause Jewish communities throughout Europe to be in a perpetual state of anxiety in case *shechitah* should be banned by their government. The implications of a ban on *shechitah* are wider than simply requiring the import of kosher meat from elsewhere, and raise the probability of wider discrimination against Jewish people. This has been demonstrated, for example, in Switzerland, where *shechitah* has been banned for many years. All imported meat attracts customs duty, but, of course, it is only the Jewish (and presumably Muslim) communities that have no alternative but to bring in meat from elsewhere. This is clearly unlawful discrimination under the RRA.

Furthermore, it results in a somewhat bizarre situation whereby all Jewish people are regarded as potential smugglers, and visibly Jewish people are regularly stopped, questioned, and searched at points of entry. A rabbi recently described to us how he and three colleagues, crossing from the French to the Swiss part of Basel, were aggressively questioned by customs officers as to how much meat they were carrying (they were not carrying any) – but were not asked whether they were carrying any other taxable or illegal item (they were not!).

Dual training and examination requirements for a trainee *shochet* could easily become unduly onerous and involve unnecessary duplication. We are, moreover, concerned that a trainee *shochet* may be stigmatised, or may be refused a license for maintaining that *shechitah* is an effective method of stunning.

20. Should the UK seek to negotiate changes to ensure existing levels of protection are maintained and costs are reduced as described under option 3?

The question is unclear since there are two variants of "option 3". The Commission impact assessment lists "*Option 3 [as] amending the Directive through its technical annexes*", whilst option 3 in the UK impact assessment states: "*Implement an amended proposal that*

maintains existing welfare protection in current EU / UK legislation and introduces improvements where welfare benefits are proportionate to the costs involved".

We urge the Scottish Government to press for amendments to the technical Annexes to recognise *shechitah* as a humane means of stunning, and permit use of the casting pen.

21. Are there any other changes the UK should seek to negotiate to ensure exiting levels of protection are maintained and costs are reduced?

Language

We consider the term "religious rites" to be at best problematic and at worst offensive, since the procedures followed by a *shochet* (person who carries out *shechitah*) can no more be described as a "rite" than can the procedures followed by a slaughterman in an abattoir producing meat for the non-kosher market. Moreover, the phrase carries overtones of the offensive term "ritual slaughter", which is generally used in a defamatory sense, associated with medieval blood libels and still, regrettably, perpetuated today in some countries.

We therefore urge that the phrase "religious rite" should be replaced by "religious practice" or "religious method [of slaughter]" throughout the Regulation.

22. Do you agree with this assessment of Option 4?

We agree that a Regulation is preferable to a Directive. We note that Government policy is "to support the application of good welfare standards enforced to the same standards internationally", and therefore we urge that the permission to states not to apply the derogation in Article 4(2) should be withdrawn to ensure that different countries do not apply different standards.

23. Does the Impact assessment accurately reflect the additional costs involved with each option and, if not, how should the costs be adjusted?

We do not have sufficient information to comment on this question.

24. In your view, will the impact of the Commission proposal on animal welfare be significant? Will the impact be positive or negative?

The Commission proposal could have a significant negative impact on the production of meat by *shechitah* as a result of the permission in Article 4(2) not to apply the derogation, the ban on the casting pen, the potential for expensive duplication of training and registration requirements, and for restricting international trade in kosher meat.

Other Issues

Labelling

We note that "NGOs consider that non-Jewish/non-Muslim consumers need to be informed and they should be given the right to choose meat obtained from animals that have been stunned." (2.3.4). However, we support the Commission report that "in all consultations ...there had been a unanimous opinion among stakeholders that slaughtering or killing animals should not be subject to any grading or differentiation system. ...and that the legislation should not introduce a grading system between slaughterhouses or slaughter

methods." (Annex II) We are particularly concerned that any labelling to indicate that meat has been produced by *shechitah* should not be in any way pejorative or critical and should not distinguish such meat from that of other suppliers in a discriminatory or unfair manner (such as to imply that it – and by extension Jewish religious practice, and by further extension, Jews – are "objectionable", as does this consultation document³). There have recently been a number of attacks on kosher butcher shops in England and there is a concern that the provision of this information on meat labelling could be exploited by extremist groups to identify further targets.

Moreover, the word "kosher" means that all the relevant *halachic* (Jewish Law) requirements have been met. Consequently describing meat that is sold to the general market because it fails to meet any aspect of these requirements is potentially seriously misleading. It is extremely important for the Jewish community that the word "kosher" should not be used without prior authorisation by the appropriate Rabbinic authorities (as nominated by the Jewish community).

Summary and Conclusion

The fact that *shechitah* does not currently take place in Scotland does not indicate that it is of little relevance to the Jewish community north of the border, merely that economic and demographic factors currently make it more practical for kosher meat to be bought from outlets in England. We therefore welcome the assurance from the Cabinet Secretary for Rural Affairs and the Environment in his reply to a parliamentary question that "*it would be perfectly legal for this method to be used in Scottish slaughterhouses*"².

We welcome the recognition the draft regulation gives to the needs of faith communities, and that *shechitah* will remain a legal method of slaughter for food. *Shechitah* is indubitably a humane means of killing animals for meat, and is a manifestation of the importance that Judaism, and Jewish Law ascribe to animal welfare. Its compliance with the definition of stunning in Article 2(f) should be formally acknowledged by the inclusion of *shechitah* in table 4 of Annex 1.

Note: The Scottish Council of Jewish Communities (SCoJeC) is the representative body of all the Jewish communities in Scotland comprising Glasgow, Edinburgh, Aberdeen, and Dundee as well as the more loosely linked groups of the Jewish Network of Argyll and the Highlands, and of students studying in Scottish Universities and Colleges. SCoJeC is Scottish Charity SC029438, and its aims are to advance public understanding about the Jewish religion, culture and community. It works with others to promote good relations and understanding among community groups and to promote equality, and represents the Jewish community in Scotland to government and other statutory and official bodies on matters affecting the Jewish community.

In preparing this response we have consulted widely among members of the Scottish Jewish community.