



Battery Hens

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- This note describes the law, both UK and EU, relating to battery hens (i.e. laying hens kept in battery cages). A separate note, [Broiler chickens and poultrymeat](#) (SN/SC/1386), covers broiler chickens (kept for meat).
 - An EU Directive in 1999 banned the use of conventional battery cages and replacing them with enriched battery cages, but not until 2012 to allow time for the industry to replace its equipment without undue cost.
 - The EFRA Select Committee report on the [Welfare of Laying Hens Directive – implications for the egg industry](#) noted that one third of Europe's egg industry would not be compliant with the new regulations when they come into force in January 2012. It warned that the compliant industry could be undermined by cheaper imports deriving from battery hens.
 - On 6 December 2011 James Paice announced that the UK Government would rely upon surveillance of imports of shell eggs to determine whether they come from compliant systems.
 - In March 2012 there were concerns about a shortage of eggs in the UK.
 - Once birds are out of cages they can peck each others' feathers. This problem causes considerable suffering. One solution is to trim the beaks within 10 days of hatching. Defra had legislated to ban beak trimming by 1 January 2011. However, on advice from the Farm Animal Welfare Council it was decided to postpone a total ban. A total ban will not be introduced until it can be demonstrated reliably under commercial conditions that laying hens can be managed without beak trimming, without a greater risk to their welfare than that caused by beak trimming itself. In November 2010 the Government announced a provisional date of 2016 for banning beak trimming.

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1 The EU Directive and its UK implementation

It is probably true to say that animal welfare standards are as high in the UK as anywhere in Europe and enforcement is much better than in some European countries. The main British law on the welfare of laying hens¹ implements the 1999 EC Directive on the subject.² There is also legislation covering the description of "free range" on eggs so that the consumer does not pay extra for eggs produced by hens reared in systems no better than battery cages.

The basic problem is the same as for most farm animal welfare issues. There is strong public feeling against farming systems that are considered to be cruel. However, there is much less concern about the whole topic in other European countries, so it is very difficult to reach agreement on strict animal welfare measures in the EU. In the absence of such agreement, tighter animal welfare controls in the UK actually tend to worsen the position of the animals. British production becomes uncompetitive and buyers turn to imports, where animals are worse treated.

On the other hand, there are many practices in British agriculture that the public considers cruel. It is not easy for the farming industry to balance animal welfare concerns with the public demand for cheap food. This problem is not unique to the UK, or to intensive agriculture.

[Council Directive 99/74/EC of 19 July 1999 laying down minimum standards for the protection of laying hens](#), OJ L 203, 3.8.99 banned conventional battery cages from 1 January 2012. *The Welfare of Farmed Animals (England) Regulations 2007* (SI 2078) now implements the Directive in the UK. Defra also published [Laying Hens: Code of Recommendations for the welfare of livestock](#), in July 2002.

The Registration of Establishments (Laying Hens) (England) Regulations 2003 (SI 3100) implement for England Commission Directive 2002/4/EC on the registration of establishments keeping laying hens, covered by Council Directive 1999/74/EC. The Regulations apply to sites keeping 350 or more laying hens. The Secretary of State is

¹ *The Welfare of Farmed Animals (England) Regulations 2000* (SI 1870) as amended by *The Welfare of Farmed Animals (England) Amendment Regulations 2002* (SI 1646)

² *Council Directive 99/74/EC laying down minimum standards for the protection of laying hens* (OJL203, 03.08.99)

required to create and maintain a register of such establishments recording the details listed in the Schedule and to allocate a distinguishing number to each establishment (regulation 3). The information in the register will be made available to the Food Standards Agency or the Health Protection Agency where this is necessary to trace eggs put on the market for human consumption (regulation 4).

2 Will eggs from cages still be imported in 2012?

2.1 EFRA Select Committee Report, September 2011

On 2 September 2011, the Environment Food and Rural Affairs Select Committee published a report on the [Welfare of Laying Hens Directive – implications for the egg industry](#), HC 830, 2010-12.

The report called for urgent action to avoid the industry being undermined by imports from non-compliant countries:

The European Commission is sleepwalking into a potential commercial disaster over animal welfare regulations that could result in unfair competition for UK egg producers, warns the Environment, Food and Rural Affairs Committee (Efra) in a report published today.

New rules, which come into force on 1 January 2012, are designed to improve conditions for caged ('battery') hens. They are the first piece of EU legislation to ban a specific method of food production on animal welfare grounds.

In a report examining the Welfare of Laying Hens Directive, the UK Parliament's Environment, Food and Rural Affairs Committee warns that around one third of Europe's egg production will not comply with the new welfare standards when this legislation comes into force.

Launching the report, Committee chair Anne McIntosh MP said,

"The European Commission has just not woken up to the impact that non-compliance with this legislation will have on egg producers in the UK and across Europe.

UK egg producers have spent around £400 million to improve conditions for laying hens. That money will be wasted and UK producers will be left at a competitive disadvantage if cheaper, illegal and non-compliant shell eggs and egg products can be imported to the UK from other European countries."

The report calls on:

- The UK Government to press for an intra-community trade ban on the export of non-compliant eggs and egg products.
- The EU Commission to initiate infraction proceedings against Member States where caged egg producers remain non-compliant once the Directive comes into force.

2.2 Other people express concern, late 2011

On 14 September 2011 James Paice pointed out that several Member States would not be ready for the abolition of conventional cages.³ In October 2011 the European Parliament expressed concern:

³ HC Deb 14 September 2011 c1163W

Belgium, Bulgaria, Cyprus, France, Poland, Portugal and Romania have all informed Brussels they are making efforts to comply with the ban on unenriched cages but are unlikely to comply with the new rules by 2012, EU sources say.

However, Italy, Spain, Greece, Latvia and Hungary are understood to be among national capitals failing to even respond to the Commission's request issued last November. "This is unacceptable," Dalli told MEPs. (...)

But the weak assurances on enforcement of the ban coming from the Commissioner sparked a flurry of protests among MEPs who fear their constituencies could be flooded by cheap imports from farms flouting the ban. (...)

Illegal eggs would be liable to being destroyed from 2012, Dalli assured MEPs today, while warning the Commission's inspection services had "limited resources" for detecting non-compliance in member states. However, *Agra Europe* understands that given the quantity of eggs in question - some 85m per day could be non-compliant - the idea of keeping this produce off the market is not under serious consideration, with Brussels loathe to cede market share to non-EU egg exporters who are not themselves likely to be using enriched cages.⁴

In November 2011, there was a debate in the House of Lords. Several Lords complained at the prospect of competition from eggs from non-compliant producers. A Minister noted that the issue remained unsolved.⁵

3 UK Government to check imports for compliance, December 2011

On 6 December 2011 James Paice explained what the Government was doing to stop imports from non-compliant producers:

We have decided that the UK enforcement strategy to deal with non-compliance with the conventional cage ban will be robust.

The Government have thoroughly investigated the possibility of taking unilateral action and bringing in a UK ban on all imports of egg and egg products which have been produced in conventional cages in other member states. However, given the very significant legal and financial implications of introducing such a ban, coupled with practical difficulties in enforcing it, it is not a realistic option.

Instead, DEFRA and the devolved Administrations will be adopting the most robust enforcement approach available to us within the legal constraints that exist. Risk-based surveillance to ensure imported shell eggs from other member states have been produced in compliance with the cage ban will be in place from 1 January. The Animal Health and Veterinary Laboratories Agency (AHVLA) is the body responsible for enforcing the conventional cage ban in Great Britain. Its knowledge of the industry and those importing eggs, coupled with an understanding of a member state's level of compliance will define the level of surveillance.

AHVLA surveillance on imports of shell eggs will use ultraviolet light analysis to identify batches of caged eggs that are not from an enriched cage environment. This technique has successfully been used to date to identify caged eggs within batches described as being produced in alternative systems, for example, free-range. It has not up until now been used to specifically identify different types of caged egg production, but we have had the technique independently validated and it can be done. This technique will be

⁴ "MEPs in uproar over battery hens", *Agra Europe*, 6 October 2011

⁵ HL Deb 14 November 2011 cc528-31

used as a marker to prompt further action. Once suspected non-compliant shell eggs are identified, AHVLA will contact the Competent Authority in the originating member state and ask for confirmation of the system of production.

If they are found to be from an illegal system, they will be prevented from being marketed as class A eggs and would be sent for processing (i.e. be treated as class B eggs)—if indeed any UK processors would accept them. If the eggs were found to be from a compliant system, the eggs would be released.

On 28 February the Government stated that it had not yet found any violations:

The Parliamentary Under-Secretary of State, Defra (Lord Taylor of Holbeach): To date, Defra has not found any class A eggs from production sites still using conventional cages entering the UK market. Batches which have been examined, using ultra violet light analysis, have so far shown marks which are consistent with legal enriched cage production. If we suspected that imported eggs being marketed as class A were from a conventional cage, we would contact the relevant competent authority for confirmation of whether the eggs were compliant or not.⁶

4 Reasons why the UK cannot ban imports from within the EU

A PQ in January 2012 explained the legal argument:

The [EU] treaty states that any restriction of trade must not constitute arbitrary discrimination. Given the traceability issues around distinguishing between imported eggs that have been reared in conventional cages in other member states and those that have not, any ban would have to be on imports of all eggs from a particular country, whether reared in conventional cages or not. That would clearly penalise compliant producers in other member states, which runs contrary to the principle of the free movement of goods.

The EU Commission has ruled out the option of an intra-Community trade ban, and has given strong warnings to member states seeking to introduce a unilateral ban. Therefore, we would run the high risk of the Commission taking out infraction proceedings against the UK if we took unilateral action.⁷

There was a full discussion of the problem of imports from non-compliant countries, taking account of the Government statement of 6 December 2011 in a Westminster Hall debate on 13 December 2011. Anne McIntosh argued that the UK could do more to ban imports from non-compliant countries.⁸ Farm Minister James Paice disagreed.⁹

5 The position in 2012

In January 2012 BBC News reported that the UK itself had producers who had retained battery cages. However, Defra was confident that non-compliant farms would all have shut down or started using new cages by February 2012.¹⁰

In March 2012, there were fears of an egg shortage rather than of non-compliant imports. Many non-compliant flocks had been slaughtered, for example in Spain, which had changed from a net exporter into a net importer of eggs:

⁶ HL Deb 28 February 2012 c337 WA

⁷ HL Deb 16 January 2012 cc111-2WA

⁸ HC Deb 13 December 2011 cc224-5WH

⁹ HC Deb 13 December 2011 cc240-1WH

¹⁰ "UK battery farms break EU rules", *BBC News*, 13 January 2012

Britain's supermarket shelves could be empty of key products within a month as an acute shortage of eggs threatens to have serious consequences for the country's food chain. New EU rules banning the housing of hens in conventional cages are being blamed for what some in the industry are already labelling a "crisis", as competition among food manufacturers to source eggs sends prices rocketing. The price of eggs on the EU wholesale market has nearly quadrupled over the past week to more than four euros a kilo.¹¹

A PQ in June 2012 updated the position:

Huw Irranca-Davies: To ask the Secretary of State for Environment, Food and Rural Affairs what steps her Department is taking to prevent the import into the UK of eggs laid by illegally caged hens; and if she will make a statement.

Mr Paice: Risk based surveillance to ensure imported shell eggs from other member states have been produced in compliance with the conventional cage ban is continuing. Inspectors are conducting checks on batches of eggs on a weekly basis at all primary importers using ultraviolet light analysis and by checking against member states' compliant producer lists. The UK's full enforcement strategy is set out in the written ministerial statement of 6 December 2011, Official Report, columns 15-19WS.¹²

6 Government to ban beak trimming by 2016

One problem with a free range system is that hens may peck each other painfully. A frequent solution is to trim beaks, but this also has welfare implications. Researchers in 2000 had studied the factors affecting feather pecking, and hoped to develop guidance for flock management that eliminates it.¹³ The Government's original intention was to ban beak trimming by 2011.

In January 2010, Defra published a [Consultation on an amendment to The Mutilations \(Permitted Procedures\) \(England\) Regulations 2007](#). That document explained the research on which the Labour Government's decision, to delay the banning of beak trimming, was based. In November 2007 the Farm Animal Welfare Council (FAWC) published its [Opinion on Beak Trimming of Laying Hens](#). The advice was critical of beak trimming but concluded that the problems caused by cannibalism were worse, so that beak trimming should not be banned.

On November 2010, the Coalition Government announced that beak trimming of laying hens would be restricted to the infra-red technique only and that it intended to ban beak trimming in laying hens completely by 2016:

The Minister of State, Department for Environment, Food and Rural Affairs (Mr James Paice): I am today laying an amendment to The Mutilations (Permitted Procedures) (England) 2007 before Parliament, principally to extend the use of routine beak trimming of laying hens beyond 31 December 2010, while restricting the method used to the infra-red technique only. I know this is a significant issue for the House, as demonstrated by the large number of signatures for my right hon. Friend the Member for Worthing West (Peter Bottomley) (EDM 260). I therefore want to set out the background behind these amending regulations and explain this Government's

¹¹ "Supermarkets fear egg shortage as farms close over welfare rules", *Observer*, 4 March 2012

¹² HC Deb 21 June 2012 c1122W

¹³ L.E. Green et al, "Cross-sectional study of the prevalence of feather pecking in laying hens in alternative systems and its associations with management and disease", *Veterinary Record* (2000) **147**, 233-238

determination to work closely with the objective of making a ban on beak trimming possible in 2016.

Currently, the UK makes use of a derogation in the EU Council Directive 99/74/EC on the welfare of laying hens, which allows for beak trimming of laying hens that are less than 10 days old if carried out by qualified staff. The procedure is only permitted to prevent feather pecking and cannibalism. The Mutilations (Permitted Procedures) (England) Regulations 2007 implements this derogation but only allows routine beak trimming to be carried out until 31 December 2010, after which beak trimming of laying hens would be banned. The ban was put in place when the laying hens directive was implemented in the UK in 2002, allowing eight years to develop a strategy to manage birds without the need to beak trim. At the same time, the previous Government established the Beak Trimming Action Group, comprising representatives from industry, welfare groups, DEFRA, and scientific and veterinary professions. The group's task was to devise an action plan which would work towards the ban on beak trimming by the end of 2010-looking at changes to management practices or selecting birds that are less prone to feather pecking. However, progress in the control of injurious pecking under commercial conditions in England has not been sufficient to implement a ban on beak trimming without causing a significant risk to animal welfare. In the meantime, a new infra-red technique was developed and is now used to beak trim birds commercially, as an alternative to hot blading. Currently, the infra-red technique is the method used on 95% of all beak trimmed laying hens.

The Farm Animal Welfare Council reviewed the evidence in 2007 and 2009. On both occasions it recommended that, until an alternative means of controlling injurious pecking in laying hens can be developed, the proposed ban on beak trimming should not be introduced, but should be deferred until it can be demonstrated reliably under commercial conditions that laying hens can be managed without beak trimming, without a greater risk to their welfare than that caused by beak trimming itself. The Farm Animal Welfare Council recommended that infra-red beak treatment should be the only method used routinely, as the evidence indicated that it does not induce chronic pain.

While the Government's long-term goal is to ban routine beak trimming, the Farm Animal Welfare Council's advice represents a sensible and pragmatic approach in the circumstances we have inherited and is in the interests of laying hen welfare. A ban on beak trimming for laying hens at this current time would result in significant welfare problems through outbreaks of feather pecking and cannibalism. The Government consider it is therefore right that the legislation needs to be amended to remove the impending ban on routine beak trimming, which would otherwise come into force on 1 January 2011..¹⁴

*The Mutilations (Permitted Procedures) (England) (Amendment) Regulations 2010, SI 2010/3034, were subsequently passed.*¹⁵

¹⁴ HC Deb 12 November 2010 4-6MC

¹⁵ [The Mutilations \(Permitted Procedures\) \(England\) \(Amendment\) Regulations 2010](#) (explanatory note attached)