

**Notification version January 2025**

**(draft) Decree amending the Animal Keepers Decree due to a ban on the use of electric livestock prods in livestock farming (Decree prohibiting the use of electric livestock prods in livestock farming).**

Having regard to Article 2.1(3) and (5) of the Animals Act;

Hereby decrees the following:

**Article I**

The Animal Holders Decree [Besluit houders van dieren] shall be amended as follows:

A

In Article 1.1, the following shall be added in alphabetical order:

*Electric cattle prod*: equipment capable of delivering electrical impulses to an animal kept commercially for the production of animal products;

B

In Article 1.3, the full stop at the end of subsection (h) is replaced by a semicolon, and a subsection is added as follows:

- i. the use of an electric livestock prod for the purpose of driving animals, with the exception of:
  - 1° their use in slaughterhouses as referred to in Regulation (EC) No 1099/2009,
  - 2° their use in the loading of transport from the Netherlands to another country or in the unloading of transport from another country as referred to in Regulation (EC) No 1/2005,
  - 3° their use by a veterinarian in the professional performance of veterinary procedures, in so far as this is necessary for that purpose,
  - 4° milking robots that automatically deliver an electric shock for the animal to leave the device, if it does not do so on its own, provided that the electric shock is always predictable and avoidable for the animal; or
  - 5° GPS collars used for driving animals that automatically deliver an electric shock to the animal, provided that the electric shock is always predictable and avoidable for the animal.

C

After Article 6.10, an article shall be added to Section 6, as follows:

**Article 6.11 Mutual recognition**

With a milking robot as referred to in Article 1.3(i)(4)<sup>o</sup>, and a GPS collar as referred to in Article 1.3(i)(5)<sup>o</sup>, milking robots and GPS collars which are lawfully manufactured or marketed in another Member State of the European Union or in a State, other than a Member State of the European Union, which is party to a Customs Union Treaty or lawfully manufactured in a State party to a Free Trade Area Treaty binding the Netherlands, and which meet requirements providing a level of protection at least equivalent to that pursued by national requirements shall be treated as milking robots and GPS collars.

**Article II**

This Decree shall enter into force on 1 July/1 January 20..PM.

**Article III**

This Decree shall be cited as the: Decree prohibiting the use of electric livestock prods in livestock farming.

I hereby order this Decree and its associated explanatory notes to be published in the official journal.

The Minister of Agriculture, Fisheries, Food Security and Nature,

## Explanatory notes

### 1. Introduction

The use of devices capable of administering electric shocks to animals (hereinafter: electric livestock prods) is permitted by European regulations in slaughterhouses and during the transport of animals (including loading and unloading). There are very specific conditions for the use of these devices, which should be avoided as much as possible according to European regulations. In practice, however, it appears that despite these strict conditions, electric livestock drives are regularly not used correctly. This Decree prohibits the use of electric livestock prods in livestock farming, insofar as this is possible within European legal frameworks. This means that the ban applies to the loading and unloading of livestock for transport that starts and ends in Dutch territory, and to the driving of livestock on primary farms. For slaughterhouses falling under an EU regulation other than transport activities or primary holdings, this ban does not apply.

### 2. Problems with electric livestock equipment in livestock farming

The use of electric livestock prods is subject to strict conditions in the European regulations. First, the use should be avoided as much as possible. They may also be used only on adult bovine animals and adult pigs which refuse to move, and only on condition that the animals have room in front of them to move. The shocks shall not exceed one second, shall be sufficiently spaced and shall be applied only to the muscles of the hind legs. Even if the animals do not react, the shocks should not be repeated.

The use of electric livestock prods always causes a pain and stress reaction in the animal, even if applied in accordance with the specific requirements of the regulations. Staff working at livestock transporters and slaughterhouse staff often see the use of electricity as a useful tool that leads to quick results. This while practice shows that the use of alternative, less aversive methods leads to equally good, or even better results, as the European Food Safety Authority (EFSA) also describes and advises in its study 'Welfare of pigs at slaughter'<sup>1</sup> from 2020.

The problem is that although European regulations clearly state that the use of these devices must be avoided, and may only be employed in a very specific manner, they do not explicitly prohibit this use. Observations by the NVWA, undercover footage, and experience from the practice of sector parties indicate that such a device, if handled, is used negligently and not in accordance with the conditions laid down in the European regulations.

For instance the loading and unloading of animals at primary holdings, assembly centres and slaughterhouses often takes place under certain time pressure. The desire for efficiency and speed leads to the chasing of animals and excessive use of the devices with which electric shocks can be administered to animals. This leads to avoidable stress and pain in the animals. Especially if the electric shocks are applied to body parts that are particularly vulnerable, such as the head or nose. Even without this time pressure, these devices can be used in an undesirable way in other processes and at other times, out of habit or negligence.

The examples of negligent use that have reached the media have led to a lot of resistance in society and in politics. Animal welfare is a topic that has become increasingly important to Dutch citizens over the years.<sup>2</sup> The pressure from the Lower House to introduce a ban on the use of electric livestock prods is a reflection of this growing desire to improve animal welfare in the Netherlands.

### 3. Aim and main features of the Decree

#### Scope

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<sup>1</sup>'Welfare of pigs at slaughter', 2020 European Food Safety Authority. EFSA Journal, <https://www.efsa.europa.eu/en/efsajournal/pub/6148>

<sup>2</sup> [Staat van het Dier 2024: beschouwingen en opinies over de verschuivende relatie tussen mens en dier in Nederland | Publicatie | Raad voor Dierenaangelegenheden \(rda.nl\)](#); [Burgerperspectieven 2023 Extra verkiezingsbericht | Publicatie | Sociaal en Cultureel Planbureau \(scp.nl\)](#); [Burgerperspectieven 2020 | 2 | Monitor | Sociaal en Cultureel Planbureau \(scp.nl\)](#)

The ban on the use of electric livestock prods concerns the use in the driving of animals which are kept on a commercial basis for the production of animal products. Under the Animals Act, it concerns in principle all animal species that are designated as production animals in Annex II to the Animal Keepers Decree (based on Article 2.1 of the Animal Keepers Decree in conjunction with Article 2.3(2) of the Animals Act). In the practice of animal husbandry, electric cattle drives are mainly used for pigs and cattle and only when they have to be loaded onto a wagon, or moved within a stable towards a transport wagon. Driving animals means any use of the electric cattle prod intended for forcing the animal in question to move in a direction, for example when loading or unloading the animals in the context of transport or making them stand up.

### **Authorisation in law**

This Decree is based on Article 2.1(3) and (5) of the Animals Act. Under paragraph 1 of this article, it is prohibited to cause pain or injury to an animal without a reasonable purpose or by exceeding what is permissible in order to achieve such a purpose, or to harm the health or well-being of the animal. Paragraph 2 contains a number of prohibited behaviours which are in any case counted among the prohibited behaviours of the paragraph 1. Paragraph 3, in conjunction with the paragraph 5, offers the possibility to designate as prohibited conduct by general administrative order the use of objects that can cause pain or injury to animals, or that can harm health or well-being.

### **Purpose and content**

The prohibited conduct involves the use of electric cattle prods. Equipment that is not capable of emitting current and only produces signals such as noise and vibration, or serves as a GPS receiver, does not fall within the scope of the ban.

The use of electric livestock prods shall be prohibited if they are used for the purpose of driving animals. Driving must be interpreted broadly. This concerns not only the animal that is already in motion, whether or not to make it move in a (different) direction more quickly, but also forcing animals that are at rest to move (for example, to get up). Applications with electric stimuli to keep animals inside (or outside) a certain area, such as fences, do not drive animals and are therefore not covered by this ban.

### **Ban limited to animals kept for production**

The ban is limited to animals kept for the production of animal products. These are animals that have been designated under Article 2.3(1) of the Animals Act, in Annex II to the Animal Keepers Decree. The ban concerns the keeping of those animals in a business context, meaning the situation in which such keeping occurs in the course of a business. The use of electric shock devices on pet dogs has recently<sup>3</sup> been prohibited.

### **Exceptions**

A number of exceptions are made to the ban to be introduced.

#### *Use in slaughterhouses*

Electric livestock prods may be used in slaughterhouses, although only to the extent that the requirements laid down in Regulation (EC) No 1099/2009 for the use of electric livestock prods are met. The national legislature cannot prohibit what the regulation allows. See further Section 3.3.2. However, there are initiatives from the slaughterhouse sector itself in which the use of electric livestock prods has been successfully phased out. In addition, the 90 largest and medium-sized slaughterhouses, in addition to supervision by the NVWA, also have voluntary camera surveillance. The combination of this monitoring pressure and the innovations that have already led to the phasing out of electric cattle drives in slaughterhouses means that the urgency for the ban in slaughterhouses is less significant.

#### *Use for loading and unloading in international transport*

Electric livestock vehicles may be used in the loading and unloading of international transport, but only to the extent that the requirements laid down in Regulation (EC) No 1/2005 for the use of electric livestock vehicles are met. The national legislature cannot prohibit what the Regulation allows. See further Section 3.3.1.

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<sup>3</sup> Bulletin of Acts and Decrees 2021, 361, p. 6.

### *Professional performance of veterinary procedures*

The use of an electric cattle prod may be necessary in the context of veterinary operations. On the basis of Article 2.9(1) of the Animals Act, a veterinary act may only be performed by persons who are authorised to do so. These are veterinarians and other persons who are registered in the veterinary medicine register (see also Article 4.1(1) and Article 4.3(1) of the Animals Act). In the context of a veterinary procedure, it may be necessary to drive the animal in question by means of an electric livestock prod. In that situation, the prohibition does not apply, provided that the veterinary operation is carried out on a professional basis and the use of an electric livestock prod is necessary. In practice, this is only the case for certain operations that may only be carried out by a veterinarian (such as making a diagnosis). The other persons entered in the register (such as veterinary assistants or veterinary midwives) do not carry out veterinary operations requiring the use of electric livestock drives; therefore, the exception does not apply to them. Where an alternative and less intrusive method is reasonably available for the situation in question, this should be used. This is an expression of the importance of being reluctant to use such equipment even in the case of veterinary procedures. However, in veterinary practice, it may be necessary to use electric livestock prods with the aim of driving the animal, mostly cattle or pigs, because it needs to be moved for its own benefit but does not do so after the animal has been induced to move by other means. In veterinary practice, electric livestock prods can also be used in situations other than for driving the animal. Although this specific prohibition does not apply to those situations, Article 2.1(1) of the Animals Act must be complied with without prejudice.

### *Use with milking robots and virtual herding*

There are known applications that deliver a light current stimulus, which is very predictable for the animal, to drive the animal. The animal is given the opportunity to learn to avoid this stimulus, and can learn that an electric stimulus is released after a certain time. This distinction is relevant as it does not have a negative impact on animal welfare.

The applications for this are the milking robot and virtual herding. The milking robot is a machine that a cow can enter to be milked. If the animal remains standing for too long after milking and does not respond to the opened door, an automated light current stimulus will follow after a certain period to move the animal and thus give room for another animal to enter the device. Because this is an electric stimulus that is given predictably (after a fixed time) following a visual signal (open door), an exception is made for this application.

The justification for the above exception also applies to the application of electric stimuli in the GPS collars to keep animals inside (or outside) a virtually determined fence (virtual fencing). In this first example, animals are not driven, so this is not covered by the ban. However, this virtual technique with the GPS collars can also be used to drive animals in a direction that is virtually determined (virtual herding). During this virtual propulsion, the collars emit a signal with positive associations when the animal moves in the correct direction, but an audible signal when the animal moves in the wrong direction. If the animal does not adjust its direction after hearing the sound, the sound will intensify, and after some time the collar will give a slight electric shock.

If there are applications in the future that also use power surge signals on animals in livestock farming on similar grounds, it can be considered whether an exception is also desirable. An exception can then possibly be added to Article 1.3(i) of the Animal Keepers Decree. In addition, an application for exemption or for a derogation on the basis of Article 10.1 of the Animals Act can also be submitted. When assessing such an application, it will have to be considered whether the interest of the welfare of the animal does not preclude the exemption or derogation.

## **Mutual recognition (Article 6.11)**

Article 1.3(i) lays down technical requirements for milking robots and GPS collars. The requirements do not seek to implement binding EU legal acts. It follows from instruction 5.28 that a mutual recognition clause should therefore be included. This means that milking robots and GPS collars manufactured or placed on the market outside the Netherlands are assimilated to a milking robot or GPS collar as referred to in this Decree, and may therefore be applied, if they:

- have been lawfully manufactured or marketed in another Member State of the European Union or in a State other than a Member State of the European Union which is a party to a customs union treaty or which is lawfully manufactured in a State party to a free trade area treaty binding the Netherlands, and
- they fulfil requirements providing a level of protection at least equivalent to the level aimed at by the national requirements.

### **3.3 Relationship to higher law**

#### **3.3.1 Regulation (EC) No 1/2005 on the protection of animals during transport and related operations (Transport Regulation)**

The Transport Regulation does not exclude the use of devices which administer electric shocks to animals, but states that this should be avoided as far as possible and imposes conditions on their use, namely that such devices *'be used in any case only for adult bovine animals and adult pigs which refuse to move, and only on condition that the animals have room in front of them to move. The shocks shall not exceed one second, shall be sufficiently spaced and shall be applied only to the muscles of the hind legs. If the animals do not respond, the shocks should not be administered repeatedly.'* (Annex 1, Chapter III, point 1.9).

However, the Regulation does not preclude stricter national measures for improving the welfare of animals during transport operations that take place entirely within the territory of the Member State or during transport operations by sea departing from the territory of the Member State concerned (Article 1(3)).

It is also important to note that the Regulation lays down as a general condition for the transport of animals that it is prohibited to transport or have animals transported in such a way that it is likely to cause injury or unnecessary suffering to the animals (Article 3). By transport, the Regulation means: the movement of animals by means of one or more means of transport and the related operations, such as loading, unloading, transshipment and resting, until all animals have been unloaded at the place of destination (Article 2).

The Regulation makes it possible, as described above, to impose stricter national requirements on the transport of animals in national transport. In a recommendation, the European Parliament also called on the Member States to adopt stricter national measures to improve animal welfare during transport<sup>4</sup>.

Enforcement on violation of the Transport Regulation is possible on the basis of Article 6.2 of the Animals Act in combination with Article 4.8 of the Animal Keepers Regulation and the Annex to the Enforcement Regulation and other matters of the Animals Act.

#### **3.3.2 Regulation (EC) No 1099/2009 on the protection of animals at the time of killing**

This Regulation does not exclude the use of devices which administer electric shocks to animals, but states that this *should be avoided as much as possible* and imposes conditions on their use, namely that those devices *'be used in any case only for adult bovine animals and adult pigs which refuse to move, and only on condition that the animals have room in front of them to move. The shocks shall not exceed one second, shall be sufficiently spaced and shall be applied only to the muscles of the hind legs. If the animals do not respond, the shocks should not be administered repeatedly.'* This follows from Annex III, point 1.9.

The Regulation further lays down as a general condition that when killing animals and related activities, care is taken to spare animals any avoidable form of pain, distress or suffering (Article 3(1)).

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<sup>4</sup> Recommendation of the European Parliament of 20 January 2022 to the Council and the Commission, following the investigation of alleged infringements or maladministration in the application of Union law concerning the protection of animals during transport within and outside the Union (2021/2736(RSP)) (2022/C 336/04)

Unlike the Transport Regulation, this Regulation leaves very limited scope for stricter national rules, namely only for three specifically mentioned situations (Article 26(2)<sup>5</sup>), which cannot be used for this situation. This means that the use of electric livestock vehicles cannot be prohibited nationally if it is applied within the frameworks and conditions laid down in the Regulation. Violation of the Regulation can be enforced on the basis of Article 6.2 of the Animals Act in combination with Article 5.8 of the Animal Keepers Regulation and the Annex to the Enforcement Regulation and other matters of the Animals Act.

### **3.3.3 Regulation (EU) 2018/848 of the European Parliament and of the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation (EC) No 834/2007**

As far as organic production is concerned, the transport of animals is already subject to a ban on the use of *'any electrical or other painful means of coercion during loading and unloading of the animals'*. This follows from Annex II, Part II, point 1.7.11 of Regulation (EU) 2018/848.

### **3.3.4 Animal Welfare Guidelines**

For the keeping of livestock there are several guidelines<sup>6</sup> laying down minimum requirements for the keeping of farmed animals. These guidelines do not regulate the use of electric livestock drives, and have been implemented in the Animal Keepers Decree.

## **4. National law**

The ban is set out in Article 1.3 of the Animal Keepers Decree. Pursuant to Article 2.1(3) and (5) of the Animals Act, that article designates behaviours that in any event qualify as animal abuse (Article 2.1(1) of the Animals Act).

For the drafting of the present ban, the original text of Article 1.3 of the Animal Keepers Decree was consulted because it already contained a similar ban (Bulletin of Acts and Decrees 2018, 146), namely: a ban on the use of equipment capable of inflicting pain on an animal by means of electric shocks, electromagnetic signals or radiation. There were some exceptions to that ban. However, that ban never entered into force as such. In 2021, it was replaced by a ban specifically on the use of electric shock devices on dogs (Bulletin of Acts and Decrees 2021, 361). Due to the specific context of this prohibition, the term *'electric livestock prod'* has been chosen.

This amendment introduces, in addition to the existing ban on the use of electric shock devices in dogs, a ban on the use of electric livestock prods in animals kept for commercial purposes for the production of animal products.

### *Arms and Ammunition Regulations*

The Arms and Ammunition Regulation provides for an exemption on, inter alia, the *'possession and carrying of objects which can render persons defenceless or inflict pain by an electric shock, to persons engaged in the professional exercise of livestock farming, the transport of livestock or their medical treatment'*. That exemption applies as regards the wearing of such an object only at the time when the said activities actually take place. (Article 21). The ban on the use of electric livestock drives in this Decree does not exclude that provision because it concerns the *use* of electric livestock drives and in the Weapons and Ammunition Regulations the *'possession and carrying'*. Moreover, the Regulation on Weapons and Ammunition does not necessarily cover the same issues. The ban in this Decree and the exemption from the Regulation on Arms and Ammunition may therefore coexist.

## **5. Intrinsic value of the animal**

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<sup>5</sup> These concern: the killing of animals outside a slaughterhouse, the slaughtering of farmed game, the slaughtering by methods required for religious rites.

<sup>6</sup> As particularly relevant in this context: Council Directive 98/58/EC of 20 July 1998 concerning the protection of animals kept for farming purposes and Council Directive 2008/120/EC of 18 December 2008 laying down minimum standards for the protection of pigs.

Article 1.3 of the Animals Act establishes the recognition of the intrinsic value of the animal. It follows from paragraph 2 of that article that, when laying down rules by or pursuant to the Animals Act, and taking decisions based on those rules, full account is taken of the consequences of those rules or decisions for the intrinsic value of the animal, without prejudice to other legitimate interests. In any event, it shall be ensured that the breach of the integrity or welfare of animals is prevented beyond what is reasonably necessary and that the care which the animals reasonably need is ensured. For the purposes of that paragraph, the care that animals reasonably need shall in any event include that animals are provided, in so far as this can reasonably be required, with, inter alia, guarantees for good health and the prevention of pain (Article 1.3(3)). This Decree establishes that it is no longer acceptable to administer electric shocks to an animal in the livestock sector with the aim of driving the animal, and therefore this is prohibited.

## **6. Notification**

As the Decree contains technical requirements, the decision was notified to the European Commission under Directive (EU) 2015/1535.

*PM result of notification.*

## **7. Enforcement**

Monitoring compliance with the ban on the use of electric livestock prods is the responsibility of those designated for this purpose under Article 8.1 of the Act. This concerns supervision that is carried out under administrative law. In order to enforce the regulations, an administrative enforcement order and an administrative penalty order may be imposed (Article 8.5 of the Animals Act in conjunction with Article 5:32(1) of the General Administrative Law Act).

Behaviour contrary to the ban on the use of electric livestock prods is also a criminal offence (Article 2.1(1) and (3) of the Animals Act in conjunction with Article 8.11(1) of the Animals Act), which makes it possible to take criminal action.

## **8. Regulatory pressure/Agro-assessment**

This Decree introduces a ban. There is no need for any action to be taken by interested parties in order to comply with this ban. This Decree has been submitted to the Advisory Board for the Review of Regulatory Burden (ATR) for advice and has been officially closed. The draft Order in Council was also discussed with the sector during what are known as agro-tests. Panel sessions with primary companies, transporters and slaughterhouses took place in autumn 2023. During the sessions, the proposal was explained, entrepreneurs were able to ask questions, and possible alternatives to the use of electric livestock prods were also discussed.

The panels are critical of the proposal and have expressed concerns about it as they consider that the sector as a whole is not ready for this ban. The panel sessions also show that different types of cattle prods with different wattage levels are used in practice and that the effect on animal welfare at lower wattages is actively tested.

Following these discussions, a demonstration of the low-voltage surge equipment was attended by invitation, and this possible exception was further studied. A possible exception for low-voltage equipment was not part of the HUF test performed (see Section 10). According to the NVWA, this exception does not seem at first sight to be effective in increasing enforceability, but the implementation of a new HUF is necessary in order to be able to assess the full impact.

Given the political wish of the Chamber for a total ban, it was decided not to include low-voltage equipment as an exception in the ban.

## **9. Consultation**

A draft of this Decree was subject to an internet consultation from 13 June 2023 to 15 August 2023. During that period, everyone had the opportunity to comment on the draft. There were 55 public responses and 13 anonymous responses. A number of responses were also received from sector organisations such as SAVEETRA (Cooperative Livestock Transporters), Transport and Logistics sub-market, NGOs, assembly centre operators, livestock farmers and transporters. No less than 27 of the respondents use the same form from V&L NL (Vee & Logistiek Nederland). 24 responses consist of individual messages from



stakeholders who are each involved in their own way in the livestock sector. Five of these responses were written by cattle transporters, one respondent works in a slaughterhouse, and one in a primary livestock farm. Of the other 17 responses, it is unclear to what they belong. The others consist mainly of other sector parties, NGOs and foundations that stand up for the interests of farm animals.

Responses were divided. Proponents of the ban argue that electric livestock prods cause pain and stress to animals in all cases. Opponents of the ban see the electric propulsion device as a last resort to move 'unwilling' animals effectively and to ensure the safety of their own workers.

The responses of the internet consultation did not lead to any substantial changes to the ban.

#### **10. Implementation and enforcement test**

The NVWA has carried out an Enforcement, Feasibility and Fraud Resistance Test (HUF test). The NVWA has concluded that the draft Order in Council is limited in its enforceability because the only way to enforce a ban on the use of electric livestock prods is to catch offenders in the act. The ban is therefore no more enforceable than the current situation in which the NVWA enforces the provisions of the Transport Regulation.

NVWA is not present during loading for domestic transport and is not always present at the primary establishment or during unloading. Furthermore, the NVWA endorses the importance of a policy rule for the exception of the use of electric cattle prods in slaughterhouses, but due to the absence of such a rule, the draft Order in Council is not yet enforceable on this point.

The changes made following the preliminary procedure (see further Section 11) have been discussed with the NVWA on an official basis, and the explanation of these changes has also been prepared based on the NVWA's comments on this matter.

#### **11. Preliminary scrutiny**

This Decree is based on Article 2.1(3) and (5) and Article 2.2(10) of the Animals Act. On these two bases, the pre-approval procedure of Article 10.10(1) of the Animals Act applies. From 5 November to 5 December 2024, the draft of this Decree was submitted to both Houses of the States General. The preliminary procedure has led to some adjustments. In answering the questions of the written consultation<sup>7</sup> with the House of Representatives, it has been indicated that a clarification will be provided in the explanatory memorandum regarding the non-prohibition of fences and that the milking robot and 'virtual herding' will be added as exceptions in the draft decision (see further Section 3 under 'Purpose and content' and under 'Exceptions').

#### **12. Entry into force**

For the entry into force of the ban, the fixed change dates for Orders in Council, namely 1 January or 1 July, shall be followed.

The Minister of Agriculture, Fisheries, Food Security and Nature,

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<sup>7</sup> Parliamentary Papers II 2024/25, 28286, No 1361.