

Decision of [date], amending the Animal Keepers Decree due to an expansion of the ban on admission to and participation in competitions, exhibitions and inspections with cropped and docked dogs and horses

(day-month-year)

We, Willem-Alexander, by the grace of God, King of the Netherlands, Prince of Orange-Nassau, etc.

On the recommendation of Our State Secretary for Agriculture, Fisheries, Food Security and Nature of, No. WJZ [number];

Having regard to Article 2.15, fifth and sixth paragraphs, and Article 2.16, third and fourth paragraphs, of the Animals Act;

Having heard the Advisory Division of the Council of State (Opinion of [date], No. [number]);

Having regard to the further report of Our State Secretary for Agriculture, Fisheries, Food Security and Nature of [date], No WJZ [number];

Have approved and hereby decree the following:

ARTICLE I

The Animal Keepers Decree [Besluit houders van dieren] is amended as follows:

In Chapter 4, a section is added with the following text:

Section 5 Admission to and participation in competitions, exhibitions and inspections

Article 4.19 Authorisation of physical procedures

The following are designated as physical procedures within the meaning of Article 2.15, fifth and sixth paragraphs, and 2.16, third and fourth paragraphs, of the act:

- a. On dogs:
 - 1°. Total or partial removal of the auricle;
 - 2°. Total or partial removal of one or more caudal vertebrae.
- b. On horses born on or after 1 December 2016: Removal of one or more caudal vertebrae.

ARTICLE II

This decree enters into force on 1 July/1 January [year].

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

State Secretary for Agriculture, Fisheries, Food Security and Nature,

EXPLANATORY MEMORANDUM

I GENERAL

1. Introduction

This decision bans the participation in competitions, exhibitions and inspections of dogs whose ears or tails have been cropped or docked and of horses whose tails have been docked that were born on or after 1 December 2016, even if the physical procedure was legally carried out in a country where it is permitted or due to a veterinary necessity. This decision also prohibits the admission of these animals to a competition, exhibition or inspection.

This decision implements a new authorisation, enshrined in the Animals Act, to designate certain surgical procedures on animals by order in council, accompanied by a ban on animals that have undergone such procedures taking part in, or being entered into, competitions, exhibitions and inspections. This authority was included in the Animals Act with the Act on combatting animal abuse and neglect [Wet aanpak dierenmishandeling en dierverwaarlozing], which entered into force on 1 January 2024 (Bulletin of Acts and Decrees 2023, 242).

2. Background

The Animals Act already bans admission to and participation in competitions, exhibitions and inspections with animals in which a physical procedure prohibited by Article 2.8 of the Animals Act¹ has been carried out (Articles 2.15, fifth and sixth paragraphs, and 2.16, third and fourth paragraphs). This ban on admission to and participation in competitions, exhibitions and inspections was introduced because it was anticipated that it would generally not be possible to catch someone in the act of carrying out a prohibited procedure and in order to curb the actual demand for such procedures. Animals that have undergone legitimate surgical procedures, for example due to a veterinary necessity, were still permitted to take part in competitions, exhibitions and inspections.

However, according to veterinarians, a veterinary necessity to crop or dock is very rare in practice. Cropped and docked animals should therefore only be seen at competitions, exhibitions and inspections under exceptional circumstances. Nevertheless, it appears that many cropped and docked animals, particularly of certain breeds such as draught horses, hunting dogs, American Bullies and American Staffordshire Terriers, still take part and are among the winners^{2,3}. It is therefore likely that veterinary certificates were issued for these animals without there actually being any veterinary necessity for docking or cropping.

If cropping or docking were to occur because of a veterinary necessity, it would be inconsistent with the fact that it appears to occur almost exclusively in a certain type of animal, where the intervention was also carried out exactly in accordance with the breed standard. The Fédération Cynologique Internationale (FCI) still allows unnecessarily cropped and docked dogs to participate in competitions, exhibitions and inspections, provided that a docked tail and/or cropped ears is listed in the FCI breed standard for the dog⁴ (and this is allowed under the legislation of the country where the competition, exhibition or inspection is organised). This is the case, for example, with the Spanish Water Dog⁵, Weimaraner⁶, German Pointer⁷, Jack Russell Terrier⁸ and American Staffordshire Terrier⁹. This gives the impression that cropped ears and/or a docked tail are

¹ A prohibited procedure is, among other things, an operation that has been carried out without a veterinary necessity.

² Winners of the National Draft Horse Show 2023 have almost all been docked: [Results of National Draft Horse Show KVTH Kronenberg 26/08/2023 \(trekpaard.net\)](https://www.trekpaard.net/Results-of-National-Draft-Horse-Show-KVTH-Kronenberg-26/08/2023)

³ A number of participants and winners of the XL Bulldog Show 2023 have cropped ears:

<https://www.thedbkc.nl/foto-s/show-02-07-2023?ep%5B230534271%5D%5Bpage%5D=1>

⁴ <https://fci.be/en/CROPPED-DOCKED-DOGS-OF-BREEDS-CUSTOMARILY-CROPPED-DOCKED-REMINDER-3645.html>

⁵ <https://fci.be/en/nomenclature/SPANISH-WATER-DOG-336.html>

⁶ <https://fci.be/en/nomenclature/WEIMARANER-99.html>

⁷ <https://fci.be/en/nomenclature/GERMAN-WIRE-HAIRED-POINTING-DOG-98.html>

⁸ <https://fci.be/en/nomenclature/JACK-RUSSELL-TERRIER-345.html>

⁹ <https://fci.be/en/nomenclature/AMERICAN-STAFFORDSHIRE-TERRIER-286.html>

desirable characteristics for the appearance of this type of animal and may result in the animal being judged more favourably at a competition, exhibition or inspection. When cropped or docked animals win, this creates an (undesirable) incentive for others to want to see these characteristics in their own animals as well.

There is also evidence and examples showing that the exemption for dogs and horses that have been (legally) docked or cropped abroad is being abused to circumvent both the cropping and docking ban and exhibition ban. A ruling by the Trade and Industry Appeals Tribunal¹⁰ states that horses which have been specially transported abroad (to countries where docking is a legal operation) and docked there for the sole purpose of evading the ban in force in the Netherlands also fall within the scope of the ban¹¹. This statement is equally and fully applicable to cropped and docked dogs. Despite this court ruling, young horses and dogs that have had their tails docked are regularly seen at competitions, exhibitions and inspections. These animals have had their tails docked abroad (legally) without this being a veterinary necessity.

Regulators and enforcement agencies lack the resources and capacity to detect, prove and punish this fraud. It is necessary to prevent abuse of the exception to the ban on participation in competitions, exhibitions and inspections with animals that have been legally docked or cropped in order to achieve the intended sustainable behavioural change to avoid unnecessary procedures. For this reason, the ban on participation in competitions, exhibitions and inspections laid down in the act addressing animal abuse and animal neglect have been expanded to include procedures to be designated by or pursuant to a general administrative regulation.

3. Purpose and main contents of the decree

This decree implements the ban on admission to and participation in competitions, exhibitions and inspections involving animals that have undergone a specified surgical procedure. By prohibiting the showing of docked and cropped dogs and horses, including in those cases where such a procedure has been carried out due to a veterinary necessity and is therefore permitted in itself, an incentive to purchase already docked or cropped animals is removed. And out of respect for the intrinsic value of animals, to have these unnecessary and unwanted procedures carried out.

Legal basis

The legal basis for the ban on participation in and admission to competitions, exhibitions and inspections of animals which have undergone a particular procedure is provided for in Article 2.15, fifth and sixth paragraphs, and Article 2.16, third and fourth paragraphs, of the Animals Act. These provisions ban animals that have undergone a procedure banned under Article 2.8 of the Animals Act or a physical procedure designated by or pursuant to an order in council - which is not in itself prohibited - from taking part in competitions, exhibitions and inspections.

Scope of the ban

By way of this decree, authorised procedures on the tail of horses (*Equus caballus*) born on or after 1 December 2016 and authorised procedures on the tail and ears of dogs (*Canis familiaris*) are designated as physical procedures that prevent animals from participating in or being admitted to competitions, exhibitions and inspections.

The decree is limited to procedures in horses (*Equus caballus*) and dogs (*Canis familiaris*) because there has been an insufficient decrease in the number of animals affected in these species since the ban on carrying out non-veterinary necessary procedures (Article 2.8 of the Animals Act) and the ban on participation in competitions, exhibitions and inspections with animals in which a prohibited procedure has been carried out (Articles 2.15, fifth and sixth paragraphs, and 2.16, third and fourth paragraphs).

Organisers of cultural events involving horses have stated that they need older animals, which have the confidence and composure to perform, in order to ensure that events such as ring-

¹⁰ Trade and Industry Appeals Tribunal, 22 December 2016, ECLI:NL:CBB:2016:400

¹¹ The Trade and Industry Appeals Tribunal has determined that this ban does not apply to horses that were docked before 1 December 2016.

stepping and folkloric parades can take place. It has therefore been decided to only designate tail docking for horses born on or after 1 December 2016. This provides for a phasing-out provision. The date of 1 December 2016 was chosen in order to comply with the ruling of the Trade and Industry Appeals Tribunal¹², according to which horses that were specially transported abroad (to countries where docking is a legal procedure) and docked there for the sole purpose of evading the ban in force in the Netherlands from 1 December 2016 also fall within the scope of the ban on physical procedures. As non-veterinary tail docking in horses is generally carried out at an early age (between two weeks and three months),¹³ it has been decided, for the sake of enforceability, to keep the date of birth instead of the date of the procedure in this decree.

Tail docking of dogs without a veterinary necessity has been banned in the Netherlands since 2001¹⁴. With certain hunting dogs in particular (e.g. English Springer Spaniel), a veterinary necessity for amputation of all or part of the tail still occurs on a regular basis¹⁵, which explains the presence of dogs in which a procedure has taken place at competitions, exhibitions and inspections. The opportunity to take part in competitions (in which the dog is not judged on its appearance) can encourage owners to give their dog regular exercise, thereby helping the dog to meet its behavioural needs¹⁶. The importance of regular exercise and mental challenges for dogs in which amputation of the tail as a veterinary necessity has taken place is weighed more heavily than the importance of reducing the carrying out of unnecessary procedures on the tail in dogs. In the interest of animal welfare, pursuant to Article 10.1 of the act, an exemption scheme will therefore be introduced for participation in and admission to sporting competitions (in which appearance is not assessed in any way) involving dogs whose tails have been fully or partially amputated as a veterinary necessity. However, for populations in which there is a high veterinary necessity for tail docking, it remains important for the sector to take preventive and other measures to reduce the incidence of these painful injuries.

This decree does not change which procedures are or are not allowed to be carried out or what is understood by a competition, exhibition and inspection. As described in the Explanatory Memorandum to the legislative proposal for animals (Parliamentary Paper 31 389, No. 3), exhibitions may be permanent or temporary. Examples of permanent exhibitions include zoos, petting zoos and other venues where animals can be viewed by the public. Temporary exhibitions are primarily exhibitions of animals that are kept as pet animals or as a hobby, such as exhibitions of dogs, cats or postal pigeons. The term 'competition' includes inspections and exhibitions with a competition element.

Intrinsic value

This amendment decree is an important signal that is consistent with the fundamental principle of the Animals Act, as set out in Article 1.3 of the act, namely that the integrity or welfare of animals must always be weighed against other interests and that any infringement of the integrity or welfare of animals must not go beyond what is reasonably necessary. The exhibition of docked and cropped animals serves only to entertain humans. This interest does not outweigh the violation of the intrinsic value of the animal and its integrity.

4. Impact

The effect of this decree is that horses and dogs in which a designated procedure has been carried out, regardless of reason and origin, may no longer participate in or be admitted to competitions, exhibitions or inspections in the Netherlands. The exceptions that previously applied to animals that had been legally docked or cropped (abroad or as a veterinary necessity) can no longer be invoked or abused. There will be fewer incentives to have an unnecessary procedure carried out or

¹² Trade and Industry Appeals Tribunal, 22 December 2016, ECLI:NL:CBB:2016:400

¹³ Lefebvre *et al.* (2007) Tail docking in horses: a review of the issues. *Animal* 1(8):1167-1178. <https://doi.org/10.1017/S1751731107000420>

¹⁴ Article 4(1) of the procedure decree: the intervention referred to in Article 2(u) (the removal of part of the tail in dogs up to the age of seven days) is designated as an authorised procedure for a period of five years from the date of entry into force (1 September 1996).

¹⁵ Lederer (2014) Investigations regarding tail injuries in working gun dogs and terriers in pest control in Scotland. University of Glasgow. <https://theses.gla.ac.uk/5629/>

¹⁶ Harvinen & Rhodes (2021) Association between participation in dog agility and physical activity of dog owners. *Anthrozoös* 34(2):217-231. <https://doi.org/10.2752/089279315X1412935072201>

to purchase an animal that has been subjected to such a procedure, thereby enhancing the integrity and welfare of dogs and horses. This means that the change in behaviour that was expected among dog and horse owners following the ban on animals that have undergone prohibited procedures taking part in competitions, exhibitions and inspections will now be able to take place after all.

Organisers of competitions, exhibitions and inspections will also have to ban legally cropped and docked dogs or horses (born on or after 1 December 2016) and risk a fine for violation of the ban. However, they already had the obligation to refuse access to animals on which a prohibited procedure has been carried out. This ban allows organisers to simplify their admission policy, as they no longer need to distinguish between animals that have undergone prohibited procedures and those that have undergone lawful procedures. Due to the phase-out scheme for horses, they will have to distinguish between cropped and docked animals born before 1 December 2016 and those born after that date. However, due to the announced exemption scheme, organisers of sporting competitions (in which appearance is not judged) will have to continue to differentiate between dogs whose tail has been fully or partly amputated as a veterinary necessity and dogs where the tail has been docked for other reasons.

Owners of dogs or horses that have been cropped or docked in accordance with the rules may be denied the possibility to take part in competitions, exhibitions and inspections. However, this should only affect a few individuals, as the cropping of dogs' ears and docking of horses' tails without a veterinary necessity has been banned since 1961¹⁷ and there is rarely a veterinary necessity for these procedures. This new ban will therefore apply in particular to animals imported from abroad (where cropping and tail docking are still permitted procedures).

Competitions and inspections are used within pedigree populations to select suitable individuals for breeding. In the case of different breeds, it is important that bred animals continue to be part of the breeding process in order to maintain a sufficiently broad genetic basis of the population and to avoid a sharp reduction in genetic variation. This ban requires flexibility on the part of the sector, so that animals can be selected for breeding outside the context of a competition, exhibition or inspection.

Due to this ban, there is a risk that animal keepers will postpone a necessary veterinary procedure in order to be allowed to participate in competitions, exhibitions or inspections. It is up to the treating veterinarian to determine at what point curative treatment is no longer possible and amputation is the appropriate course of action. If an owner fails to follow the veterinarian's advice in this regard, they are depriving the animal of necessary care, which is a criminal offence under the Animals Act (Section 2.2(8) of the Animals Act). A condition that could give rise to amputation is visible. An owner may be called to account for this by the organiser or spectators or the matter may be reported to the monitoring and enforcement authorities

5. Supervision and enforcement

The parties responsible for monitoring compliance with the provisions of the decree are those designated for this purpose pursuant to Article 8.1 of the act. These include the Netherlands Enterprise Agency (RVO), Netherlands Food and Consumer Product Safety Authority (NVWA), Dutch Animal Welfare Inspectorate (LID) and the police. This concerns supervision that is carried out under administrative law. Conduct contrary to the provisions of Articles 2.15, fifth and sixth paragraphs, and 2.16, third and fourth paragraphs, of the Animals Act may be enforced by means of an administrative enforcement order (Article 8.5 of the Animals Act), an order for periodic penalty payments (Article 5:32 of the General Administrative Law Act) or an administrative fine (Article 8.6 and 8.7 of the Animals Act).

In addition to their supervisory role, the NVWA, LID and the police are also authorised to conduct criminal investigations into violations of the provisions of this decree. In the event of a violation of the ban on participation in and admission to an exhibition or inspection of animals in which a designated physical procedure has been carried out (Article 2.16, third and fourth paragraphs, of

¹⁷ Criminal Code, Article 455 (2)(<https://zoek.officielebekendmakingen.nl/stb-1961-19.pdf>)

the Animals Act), criminal enforcement is possible under the Economic Offences Act (Article 1 (2) and Article 2, first paragraph, of the Economic Offences Act). The ban on participation in and admission to competitions (Article 2.15, fifth and sixth paragraphs, of the Animals Act) can be criminally enforced on the basis of Article 8.11, second paragraph, of the Animals Act.

The ban is enforceable because the mere observation that a docked or cropped dog or horse is present at a competition, exhibition or inspection is sufficient to establish an offence. It will be considerably easier for regulators and enforcement agencies to enforce the rules now that only a very limited number of exceptions apply. The ban may lead to a limited increase in the enforcement burden. It will become easier to enforce, which may lead to more cases, although the investment required to build a case will be lower and the ban should result in fewer and fewer offences.

6. Monitoring and evaluation

The enforcement will show whether action is being taken in line with the ban. From the entry into force of the ban, there will have to be a complete decrease in participation of the number of docked and cropped dogs and horses in competitions, exhibitions and inspections. Evaluation will take place five years after the entry into force of the ban, with effects monitored using figures from enforcement and visual material from competitions, exhibitions and inspections. It is expected that there will also be a large decrease in the number of docked and cropped dogs and horses in the entire Dutch population. The assumption here is that more dogs and horses are currently being docked and cropped than is medically necessary and that the incentive to carry out these unnecessary procedures (or have them carried out) will diminish once the animals are no longer allowed to take part in competitions, exhibitions and inspections.

7. Advice and consultation

Regulatory burden

This Order in Council is not expected to lead to a substantial increase in the regulatory burden. Owners of dogs and horses that have been cropped or docked in accordance with the rules may no longer enter these animals in competitions, exhibitions or inspections, but are not required to change their behaviour in any other respect. Compliance will be monitored and enforced by the supervisory authority. Given the limited scope of the ban on participation in and admission to competitions, exhibitions and inspections, this is expected to be carried out as part of its regular duties. In its opinion on the legislative proposal on addressing animal cruelty and neglect¹⁸, the Council for the Judiciary also stated that the number of cases before the administrative courts is likely to rise slightly, but that this effect, taken together with the impact on the workload of the criminal courts, is not considered to be substantial.

The regulatory burden has been sufficiently identified, the ATR did not select the file for formal advice because it does not foresee any significant impact on regulatory burden.

Impact on businesses

Organisers of competitions, exhibitions and inspections must ensure that they do not admit cropped or docked dogs or horses. To do so, they will have to adjust their conditions and deny any unauthorised animals access to the competition, exhibition or inspection. This entails only a limited increase in the regulatory burden for them because they have already made provisions to ban dogs and horses on which a prohibited procedure has been carried out. The determination of animals to be banned will even be easier, as organisers will no longer have to distinguish between prohibited and authorised procedures on dogs and horses. Organisers of competitions, exhibitions and exhibitions involving dogs and horses will miss out on the admission fees for animals that have been legally cropped or docked. Hundreds of competitions, exhibitions and exhibitions for dogs and horses are organised every year, with thousands of animals taking part. It is estimated that this amounts to several dozen animals per year. The average registration fee is EUR 50 per competition, exhibition or inspection.

¹⁸ <https://open.overheid.nl/documenten/ronl-5dcb9120-0f25-4cdf-ae8-6ece7989c347/pdf>

Online consultation

The draft decree was open for online consultation for four weeks (from 26 December 2024 to 13 January 2025). The online consultation produced 125 responses. A total of six interest associations, 16 pedigree dog associations and 103 Dutch citizens responded to the proposed measure. The citizens who responded were mostly breeders or owners of hunting dogs. All responses concerned the proposed ban on the participation of and entry into competitions, exhibitions and exhibitions involving cropped and docked dogs. Only two responses received concerned (among other things) the ban on horses whose tails were docked on or after 1 December 2016 taking part in competitions, exhibitions and inspections and on allowing such animals to participate in these events. Of the responses, 91 (73%) were positive and 27 (22%) were negative about all or part of the ban.

The online consultation shows broad support for the ban on participation in and admission to exhibitions and inspections involving cropped and docked dogs. In addition, many responses were positive about the exemption for participation in competitions in which the dog is not judged by its appearance, provided that the tail was amputated as a veterinary necessity.

A number of responses to the online consultation indicated that it is not fair to exclude animals that have been amputated as a veterinary necessity from participation in competitions, exhibitions and inspections. In their view, the alleged fraud with veterinary declarations should be addressed in a different way. In response to this, I would point out that the proposed alternatives are not feasible and that the suspicion that animals are still being cropped and docked unnecessarily in pursuit of a particular ideal of beauty makes it necessary to tighten the regulations.

A number of responses stated that dogs imported from an EU Member State where cropping and docking are still permitted should not be excluded from participation in competitions, exhibitions and inspections. A number of responses call for a transitional arrangement for this group of animals, so that the ban only applies to animals imported after the entry into force of the ban. In response, I would point out that I do not consider it necessary to provide for transitional arrangements for cropped and docked animals imported from abroad, since the desire for such a ban has been expressed with some regularity in recent years. Given the widespread attention this issue has received in society, it is assumed that all keepers of animals are aware of it or could have been aware of it. Furthermore, the welfare of these animals can be safeguarded outside of competitions, exhibitions and inspections.

A number of responses indicated that it is necessary to allow legally bred breeding animals to participate in competitions, exhibitions and inspections, so that it remains possible to select and approve good breeding material. These responses state that the genetic diversity within the breed is reduced when lawfully docked and cropped dogs are excluded from participation in exhibitions and inspections, as they are therefore effectively excluded from breeding. In response to this, I would point out that the assessment of a dog or horse for the purposes of (pedigree) breeding does not need to take place within the framework of an inspection within the meaning of Article 2.16, third and fourth paragraphs, of the Animals Act. This assessment can take place, for example, at home, on the private property of the owner of the animal and in the absence of the public. This ensures that it remains possible to use cropped and docked dogs and horses for pedigree and other breeding in order to maintain a healthy breeding population.

Feasibility and enforceability assessments

The authorities responsible for overseeing the decision have been asked to assess its feasibility and enforceability. These include the Netherlands Enterprise Agency (RVO), Netherlands Food and Consumer Product Safety Authority (NVWA), Dutch Animal Welfare Inspectorate (LID) and the police.

The police did not respond to the request. The RVO, NVWA and LID initially assessed the amendment decree as not feasible and enforceable. The draft regulation did not give rise to any comments in relation to fraud-proofing.

The RVO noted that it would like clarification as to whether the exemption for dogs with docked tails in competitions applies to dogs whose tails have been docked for medical or preventive reasons or also to dogs imported from countries where tail docking is permitted. In addition, the RVO would like to see it stipulated that the burden of proof regarding the reason for docking or cropping lies with the keeper. To this end, the NVWA is calling for a requirement for veterinarians to include verifiable information about cropping and docking in the animal passport. In response, I would point out that, as a result of these comments, it will be provided in the exemption scheme that the exemption is limited to dogs that have undergone full or partial tail amputation as a veterinary necessity and whose keeper can present a document from the veterinarian showing the veterinary necessity for the procedure and describing details of the procedure.

The RVO, NVWA and LID have noted that the distinction between competitions and exhibitions and inspections is not sufficiently clear. After all, many inspections and exhibitions have a competitive element and there may be events in which both sporting competitions and non-sporting competitions and inspections take place. In response to this, I would like to point out that it is not possible to include a definition of competitions, exhibitions and inspections in this decree, as this would require an amendment to the Animals Act. The exemption scheme will therefore specify that it applies only to sporting competitions in which the dog's appearance is not assessed in any way. In addition, it will be stipulated that the exemption does not apply to participation in or admission to events in which a sporting competition is combined with another type of competition, or with an exhibition or inspection.

The LID wonders whether participation in competitions is the only way in which dogs can meet their behavioural needs. According to the LID, there are plenty of other possibilities to ensure that these animals can meet their behavioural needs. Furthermore, the RVO and LID have noted that they would like to see (scientific) evidence explaining why, for what purpose and how often cropping and tail docking still takes place in hunting and other dogs. In response to this, I like to point out that the literature shows that taking part in competitions encourages owners to engage in more activities with their dogs and that the dogs personally enjoy a greater variety of activities. This information has also been included both in the Explanatory Memorandum to this decree and, in due course, in the aforementioned exemption scheme.

The NVWA also emphasises that, in the case of certain breeds (Pembroke Welsh Corgi, Australian Shepherd, English or Welsh Springer), dogs are occasionally born without a tail or with a tail having fewer vertebrae, and that the NVWA is unable to distinguish between these cases. In response, I would like point out that, in case of doubt as to whether a dog was born without a tail, DNA tests may be used to prove this in some dog breeds and in some crossbreeds. Congenital malformations of the tail vertebrae can also be established using X-rays. Docking performed later in life takes place between two vertebrae, which is also visible on an X-ray. Although the distinction cannot be determined on the spot, a further examination may clarify the matter in cases of doubt.

The NVWA also noted that the distinction between dogs and horses is neither logical nor clear-cut and proposes that the exemption for horses that had their tails docked prior to 1 December 2016 be abolished. In response to this, I would like to point out that the Explanatory Memorandum to this decree provides further details on why this distinction is made and why this exception has been included for horses.

The RVO, NVWA and LID have also commented on the enforceability of the date on which a horse was docked. They wish to stipulate that it is up to the owner of a docked horse to prove that the procedure took place before or on 1 December 2016. In response to this, I would point out that it is not possible to include such a reversal of the burden of proof. For reasons of enforceability, it has been decided to designate tail docking for horses born on or after 1 December 2016. This can easily be determined by the identification and registration obligation for horses.

The NVWA recommends that, at the same time as amending the Animal Keepers Decree, a fine category should also be linked to violations in the regulation on enforcement and other matters of the Animals Act, so that it is administratively finable. In response to this, I would like to point out

that the offence will be included in the Regulation on enforcement and other matters in due course, at which time the corresponding fine category will also be determined.

Following the online consultation and the feasibility and enforceability assessments, the draft decree was amended in two respects:

- The exemption regarding the participation in and admission to competitions of dogs with a legally docked tail is set out in an exemption scheme rather than in the decree. In line with the responses to the online consultation, the exemption scheme clearly specifies that it applies to dogs whose tails have been amputated for medical reasons and to participation in sporting competitions in which the dog's appearance is not assessed in any way.
- For reasons of enforceability, the reference date for the ban on participation in and admission to competitions, exhibitions and inspections of lawfully docked horses has been changed from the date on which the operation took place to the date of birth of the horse.

Following these amendments, the decision was assessed by the RVO, NVWA and LID as being both feasible and enforceable, and the draft regulation no longer gives rise to any comments regarding fraud-proofing.

The NVWA has, however, stated that in the case of dog breeds where a dog is (occasionally) born without a tail or with a tail having fewer tail vertebrae, it would like the owner to demonstrate that the dog's tail has not been docked; otherwise, the regulation cannot be enforced in relation to these breeds. In response to this, I would like to point out that the Dutch Kennel Club already requires that dogs born without a tail or with a short tail in breeds where naturally short tails occur must have this noted in their pedigree¹⁹. I therefore do not consider it necessary, excessive even, to reverse the burden of proof.

Notification

The draft decree (notification number **) was notified to the European Commission on **. [p.m standstill ends at **].

Notification has been made because the actual effect of the ban is that horses (born on or after 1 December 2016) and dogs in which a designated procedure has been carried out, regardless of reason and origin, may no longer participate in or be admitted to competitions, exhibitions or inspections in the Netherlands. This in itself constitutes a barrier to intra-community trade. However, this barrier is justified because it is necessary in the interest of animal welfare, which has been recognised as a legitimate objective of general interest (see, among others, the Andibel ruling: ECLI:EU:C:2008:353). By banning the showing of docked and cropped dogs and horses, including in those cases in which such a procedure has been carried out due to a veterinary necessity and is therefore permitted in itself, an incentive to purchase already docked or cropped animals (whether or not from abroad) is removed. And out of respect for the intrinsic value of animals, to have these unnecessary and unwanted procedures carried out. The ban is appropriate for the purpose and implements the principle of the Animals Act that the integrity or welfare of animals must always be weighed against other interests and that any infringement of the integrity or welfare of animals must not go beyond what is reasonably necessary. The exhibition of docked and cropped animals serves only to entertain humans. This interest does not outweigh the violation of the intrinsic value of the animal and its integrity. The ban supplements the existing ban on admission to and participation in competitions, exhibitions and inspections involving animals that have undergone physical procedures prohibited under Article 2.8 of the Animals Act. A prohibited procedure is, among other things, an operation that has been carried out without a veterinary necessity.

No other less far-reaching measures than this ban are conceivable to achieve the objective. The ban is also proportionate because it is limited to procedures on the tail in horses and procedures on the tail and ears of dogs.

¹⁹ <https://www.houdenvanhonden.nl/fokken-met-je-hond/staartloos-geboren-honden/>

Financial impact

No financial impact is foreseen for the national government, as described under the headings '*Regulatory burden*' and '*Feasibility and enforceability assessments*'. The financial impact on the sector is described under the heading '*Impact on businesses*'.

Preliminary scrutiny

Pursuant to Article 10.10(1) of the Animals Act, a proposal for an Order in Council to be adopted pursuant to Article 2.2(10) of that act will be made no earlier than four weeks after the draft has been submitted to both Houses of the States General. With a view to this preliminary scrutiny, the draft decree was sent to the First and Second Chambers by letter on [day-month-year] (Parliamentary Papers [...] and [...]). [p.m. description of the preliminary scrutiny results and how they led to changes in the design].

8. Entry into force

This decree enters into force on 1 July/1 January [year].

State Secretary for Agriculture, Fisheries, Food Security and Nature,