
SCOTTISH STATUTORY INSTRUMENTS

2001 No. 231

ANIMALS

ANIMAL HEALTH

The BSE Monitoring (Scotland) Regulations 2001

<i>Made</i>	- - - -	<i>13th June 2001</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>13th June 2001</i>
<i>Coming into force</i>	- -	<i>1st July 2001</i>

The Scottish Ministers, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(1) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the BSE Monitoring (Scotland) Regulations 2001 and shall come into force on 1st July 2001.

(2) These Regulations extend to Scotland only.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

“BSE” means the disease bovine spongiform encephalopathy;

“the BSE (No. 2) Order” means the Bovine Spongiform Encephalopathy (No. 2) Order 1996(2);

“bovine animal” includes buffalo of the species *Bubalus bubalis* and *Bison bison*;

“the Commission Decisions” means—

(a) Commission Decision 2000/764/EC(3) on the testing of bovine animals for the presence of bovine spongiform encephalopathy and amending Decision 98/272/EC(4) on epidemio-surveillance for transmissible encephalopathies; and

(1) 1972 c. 68. Section 2(2) was amended by the Scotland Act 1998 (c. 46), Schedule 8, paragraph 15(3). The function conferred upon the Minister of the Crown under section 2(2) of the European Communities Act 1972, insofar as within devolved competence, was transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.

(2) S.I. 1996/3183, amended by S.I. 1997/2387, 1998/3071 and 1999/921.

(3) O.J. No. L 305, 6.12.00, p.35.

(4) O.J. No. L 122, 24.4.98, p.59.

- (b) Commission Decision 2001/233/EC⁽⁵⁾ amending Decision 2000/418/EC⁽⁶⁾ as regards mechanically recovered meat and bovine vertebral column;

“inspector” means—

- (a) a person appointed as such for the purposes of these Regulations by the Scottish Ministers, including a veterinary inspector; and
- (b) a person appointed as such for the purposes of these Regulations by a local authority in relation to its enforcement responsibilities under these Regulations;

“justice of the peace” means a full justice as defined by section 9 of the District Courts (Scotland) Act 1975⁽⁷⁾;

“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994⁽⁸⁾;

“notifiable bovine animal” means a bovine animal over 30 months of age which—

- (a) dies on any farm or in transit; or
- (b) has been killed otherwise than for human consumption;

“premises” means any place (including any structure or vehicle) in which bovine animals may be bred, handled, held, kept, marketed or shown to the public, and, except for regulations 4(1) and (2), includes any such place occupied as a private dwelling; and

“veterinary inspector” means a veterinary inspector appointed for the purposes of these Regulations by the Scottish Ministers.

(2) Expressions in these Regulations which are not defined in paragraph (1) above and which appear in the Commission Decisions have the same meaning in these Regulations as they have for the purposes of the Commission Decision in which they appear.

(3) Any person appointed by the Scottish Ministers or a local authority to be an inspector for the purposes of the Animal Health Act 1981⁽⁹⁾ shall be deemed to have been appointed by the Scottish Ministers or that authority to be an inspector for the purposes of these Regulations.

Requirements relating to bovine animals over 30 months of age

3.—(1) A person who—

- (a) has in the possession of that person or under the charge of that person a notifiable bovine animal which dies; or
- (b) comes into the possession of the carcase of a notifiable bovine animal,

shall, with all practical speed and in any event within 24 hours from the time when the animal dies or the carcase comes into the possession of that person, notify that fact to the Scottish Ministers or, where the Scottish Ministers have appointed an agent to receive notifications under this paragraph on their behalf, to that agent.

(2) Any veterinary surgeon or other person who, in the course of the duties of such person—

- (a) examines or inspects any notifiable bovine animal which dies during the course of those duties; or
- (b) examines or inspects the carcase of any notifiable bovine animal,

⁽⁵⁾ O.J. No. L 84, 23.3.01, p.59.

⁽⁶⁾ O.J. No. L 158, 30.6.00, p.76.

⁽⁷⁾ 1975 c. 20. The definition of “full justice” was inserted by section 8 of the [Bail, Judicial Appointments etc. \(Scotland\) Act 2000 \(asp 9\)](#).

⁽⁸⁾ 1994 c. 39.

⁽⁹⁾ 1981 c. 22.

shall with all practicable speed, and in any event within 24 hours from the time when the animal dies or the carcase is examined or inspected, notify that fact to the Scottish Ministers or, where the Scottish Ministers have appointed an agent to receive notifications under this paragraph on their behalf, to that agent.

(3) Where the Scottish Ministers appoint an agent for the purposes of receiving notifications on their behalf under paragraphs (1) or (2) above, the Scottish Ministers shall publish by such means as they think fit, including by notice in the Edinburgh Gazette, the name of the agent, the address of the agent and other relevant contact information and the date on and after which notifications under paragraphs (1) and (2) above shall be made to the agent instead of the Scottish Ministers.

(4) A person who has in the possession of that person or under the charge of that person on any premises a notifiable bovine animal, shall detain it on the premises until it has been collected by or on behalf of the Scottish Ministers.

Powers of entry, examination, search and sampling etc.

4.—(1) An inspector may at all reasonable hours and on producing, if so required, a duly authenticated document showing that person's authority, enter any premises—

- (a) for the purpose of ascertaining whether any notifiable bovine animal is being or has been kept on the premises; or
- (b) for the purpose of ascertaining whether there is or has been any contravention of, or failure to comply with, these Regulations.

(2) If a sheriff or justice of the peace, on sworn information in writing—

- (a) is satisfied that there are reasonable grounds for entry into any premises for any such purpose as is mentioned in paragraph (1) above; and
- (b) is satisfied either that—
 - (i) admission to the premises has been or is likely to be refused, and that notice of the intention to apply for a warrant has been given to the occupier; or
 - (ii) an application for admission, or the giving of such a notice, would defeat the object of the entry or that the case is one of urgency or that the premises are unoccupied or the occupier temporarily absent,

the sheriff or justice of the peace may by signed warrant authorise an inspector to enter the premises, if need be by using reasonable force.

(3) An inspector entering any premises by virtue of this regulation, or of a warrant issued under it, may be accompanied by such other persons as that inspector considers necessary, and on leaving any unoccupied premises which the inspector has entered by virtue of such a warrant shall leave them as effectively secured against unauthorised entry as that inspector found them.

(4) An inspector may—

- (a) inspect and examine any bovine animal or the carcase of any bovine animal which is present on the premises;
- (b) make such tests in relation to, and take such samples from, any bovine animal or the carcase of any bovine animal which is present on the premises as that inspector considers necessary for the purposes of these Regulations;
- (c) mark for identification purposes any bovine animal or the carcase of any bovine animal which is present on the premises;
- (d) examine any relevant record, in whatever form on the premises and take copies of those records;

- (e) have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been used in connection with any records, and require any person having charge of, or who is otherwise concerned with the operation of the computer, apparatus or material to afford the inspector such assistance as may reasonably be required;
- (f) where records are kept by means of a computer, require the records to be produced in a form in which they may be taken away;
- (g) be accompanied by a representative of the European Commission acting for any purposes in relation to the Commission Decisions.

Obstruction

5.—(1) Any person who—

- (a) intentionally obstructs any person acting in the execution of these Regulations;
- (b) without reasonable cause, fails to give to any person acting in the execution of these Regulations any assistance or information which that person may reasonably require for the purpose of carrying out functions under these Regulations; or
- (c) furnishes to any person acting in the execution of these Regulations any information which is known by that person to be false or misleading in a material particular,

shall be guilty of an offence.

(2) Nothing in paragraph (1)(b) above shall be construed as requiring any person to answer any question or give any information if to do so might incriminate that person.

Offences and penalties

6.—(1) Any person who, without lawful authority or excuse, proof of which shall lie on that person—

- (a) contravenes or fails to comply with regulation 3(1), (2) or (4) above; or
- (b) knowingly causes or permits any such contravention or non-compliance to occur,

shall be guilty of an offence.

(2) A person guilty of an offence under these Regulations shall be liable—

- (a) on summary conviction to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding three months or to both;
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.

Offences by bodies corporate

7.—(1) Where an offence under these Regulations committed by a body corporate or a partnership is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any director, manager, secretary or similar officer of the body corporate, or any person who was purporting to act in any such capacity (or in the case of a partnership, a partner or a person who was purporting to act as such), that person as well as the body corporate or the partnership, as the case may be, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, the provisions of paragraph (1) above shall apply in relation to the acts and defaults of a member in connection with the members' functions of management as if the member were a director of the body corporate.

Enforcement

8. The provisions of these Regulations shall be executed and enforced by the local authority or by the Scottish Ministers.

Amendment of the Bovine Spongiform Encephalopathy (No. 2) Order 1996

9.—(1) Article 11 of the BSE (No. 2) Order shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (1), after the word “carcase” there shall be inserted the following:—
“or any blood derived from any carcase whether or not the carcase from which it is derived is seized, destroyed or disposed of by an inspector”.

(3) In paragraph (2)—

(a) after the word “carcase”, where it first appears, there shall be inserted the following:—

“or any blood derived from any carcase”; and

(b) after the word “carcase” where it subsequently appears there shall be inserted the following:—

“or blood”.

(4) In paragraph (3), after the word “carcases” there shall be inserted the following words:—
“or any blood derived from the carcasses”.

Amendment of the Cattle Identification Regulations 1998

10.—(1) The Cattle Identification Regulations 1998(10) shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 2(1) after the definition of “local authority” there shall be inserted the following definition:—

““notifiable bovine animal” means a bovine animal over 30 months of age which—

(a) dies on any farm or in transit; or

(b) has been killed otherwise than for human consumption;”.

(3) In regulation 26 at the beginning of paragraph (1) there shall be inserted the following:—
“Subject to paragraph (1A) below,”.

(4) In regulation 26, after paragraph (1) there shall be inserted the following paragraph:—

“(1A) If a notifiable bovine animal with a cattle passport dies, the keeper will be treated as having complied with paragraph (1) above if, on notifying the fact in accordance with regulation 3(1) of the BSE Monitoring (Scotland) Regulations 2001, the keeper surrenders the cattle passport to the Scottish Ministers or, where the Scottish Ministers have appointed an agent to receive notifications, to that agent.”.

Amendment of the Cattle (Identification of Older Animals) (Scotland) Regulations 2001

11.—(1) The Cattle (Identification of Older Animals) (Scotland) Regulations 2001(11) shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 2(1), after the definition of “local authority” there shall be inserted the following definition:—

(10) S.I 1998/871 amended by S.I 1998/2969, 1999/1339.

(11) S.S.I. 2001/1.

““notifiable bovine animal” means a bovine animal over 30 months of age which–

- (a) dies on any farm or in transit; or
- (b) has been killed otherwise than for human consumption;”.

(3) In regulation 9, at the beginning there shall be inserted the following:–

“(1) Subject to paragraph (2) below,”.

(4) In regulation 9, after paragraph (1) there shall be inserted the following paragraph:–

“(2) If a notifiable bovine animal with a registration certificate dies, the keeper will be treated as having complied with paragraph (1) above if, on notifying the fact in accordance with regulation 3(1) of the BSE Monitoring (Scotland) Regulations 2001, the keeper surrenders the registration certificate to the Scottish Ministers or, where the Scottish Ministers have appointed an agent to receive notifications, to that agent.”.

Pentland House,
Edinburgh
13th June 2001

ROSS FINNIE
A member of the Scottish Executive

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the purpose of dealing in Scotland with the obligations in Article 1.2 of Commission Decision 2000/764/EC on the testing of bovine animals for the presence of bovine spongiform encephalopathy and amending Decision 98/272/EC on epidemio-surveillance for transmissible encephalopathies and Commission Decision 2001/233/EC amending Decision 2000/418/EC as regards mechanically recovered meat and bovine vertebral column. These require member States to ensure that certain categories of bovine animals over 30 months of age are examined in accordance with prescribed minimum requirements for monitoring BSE.

The Regulations require the person in possession or in charge of a notifiable bovine animal (defined in regulation 2 as a bovine animal aged over 30 months of age which dies on any farm or in transit or which has been killed otherwise than for human consumption) to notify the death to the Scottish Ministers or an agent appointed for that purpose. Related amendments for the purpose of dealing with this obligation are made to article 11 of the Bovine Spongiform Encephalopathy (No. 2) Order 1996, to the Cattle Identification Regulations 1998 and to the Cattle (Identification of Older Animals) (Scotland) Regulation 2001.

The Regulations provide powers of entry, examination and search, offences and penalties and enforcement.

A Regulatory Impact Assessment for these Regulations has been prepared and placed in the Scottish Parliament Information Centre. Copies may be obtained from SEERAD, Robb's Loan, Edinburgh, EH14 1TY.