SCOTTISH STATUTORY INSTRUMENTS

2012 No. 178

The African Horse Sickness (Scotland) Order 2012

PART 8

Enforcement and miscellaneous provisions

Declaration of zones

25.—(1) A declaration of a zone under this Order—

(a) must be in writing and publicised;

(b) must designate the extent of the zone being declared; and

(c) may be amended or revoked by further declaration at any time.

(2) Unless the Scottish Ministers state otherwise in any declaration of a zone, any movement which is prohibited but has already started when such a declaration comes into force may be completed.

(3) Any person on whom a restriction or other measure is imposed by virtue of article 17(5), 18(9) or 19(3) must comply with it.

(4) In deciding to amend or revoke any declaration of a zone, the Scottish Ministers must have regard to the epidemiological situation and the measures necessary to control the spread of African horse sickness virus.

Notices

26.—(1) Any notice served under this Order may be amended, suspended or revoked at any time by a further notice.

(2) A person must comply with the terms of any notice served under this Order.

Licences

27.—(1) A licence granted under this Order must be in writing and may be—

(a) general or specific;

(b) subject to conditions; and

(c) amended, suspended or revoked in writing at any time.

(2) A person moving any horse, equipment or genetic material under the authority of a specific licence must—

(a) carry the licence or a copy of it at all times during the movement;

(b) on demand by an inspector, produce the licence or a copy and allow a copy or extract to be taken; and

(c) keep the licence for at least 6 months after the movement has been completed.

(3) Where a licence is required or authorised under this Order to be granted by a veterinary inspector, it may also be granted by an inspector acting under the direction of a veterinary inspector.

(4) A person moving any horse, equipment or genetic material under the authority of a general licence must—

(a) carry, at all times during the movement, a document containing details of—

(i) what is being transported, including the quantity;

(ii) the date of the movement;

(iii) the name of the person responsible for the horse or equipment or genetic material at both the place of departure and at the place of destination; and

(iv) the addresses of the place of departure and of the destination;

(b) on demand by an inspector, produce the document and allow a copy or extract to be taken; and

(c) keep the document for at least 6 months after the movement has been completed.

(5) If any horse, equipment or genetic material has been moved to premises under a licence, a veterinary inspector may serve a notice on any occupier of the premises of destination imposing such movement restrictions on those premises as are necessary to prevent the risk of spreading African horse sickness virus.

(6) Except where otherwise directed by the Scottish Ministers, licences granted in England or Wales for activities which could be licensed in Scotland under this Order have effect in Scotland as if they were licences granted under this Order, and the provisions of this article apply accordingly.

Powers of inspectors

28.—(1) A veterinary inspector may, at all reasonable hours, enter any premises, vehicle or vessel (except any premises used wholly or mainly as a private dwelling house) for a relevant purpose.

(2) A person entering premises, a vehicle or a vessel under paragraph (1) must produce, if required, a duly authenticated document showing their authority to enter.

(3) A person entering premises, a vehicle or a vessel under paragraph (1) may—

(a) take with them any equipment; and

(b) be accompanied by—

(i) such other person as they consider necessary; and

(ii) a representative of the European Commission acting for the purpose of the enforcement of an EU obligation.

(4) A person entering premises under paragraph (1) may take a vehicle with them.

(5) Upon entering any premises, vehicle or vessel, an inspector may, for a relevant purpose—

(a) detain, isolate or restrain any horse there;

(b) require the detention, isolation or restraint of any horse there;

(c) detain, examine or isolate any thing there;

(d) require the detention or isolation of any thing there;

(e) mark for identification purposes any horse, carcase or thing there;

(f) require any person who knows about the movement of a horse to give details of that movement, and the details of any other horse with which it has been in contact;

(g) require any occupier of premises or keeper of horses on premises to give details of horses either on those premises or on other premises where the occupier or keeper has horses;

(h) require the production of any record kept, in whatever form that record is held;

(i) copy any record referred to in sub-paragraph (h); and

(j) inspect and check the operation of any computer and associated apparatus or material used in connection with the making and keeping of records.

(6) A veterinary inspector may for a relevant purpose—

(a) require the cleansing and disinfection of any part of any premises, or of any person, horse, vehicle, vessel or thing on premises;

(b) require the testing of any horse;

(c) require the treatment of any horse;

(d) require any occupier of premises or the keeper of animals on premises to—

(i) retain a horse for use as a sentinel horse, or allow the introduction of a sentinel horse onto premises;

(ii) move a horse to a place specified by the veterinary inspector;

(e) set traps for, and trap, vectors;

(f) require, or implement, vector control measures; and

(g) require the destruction, burial, disposal or treatment of any thing.

(7) A veterinary inspector may for a relevant purpose—

(a) examine any horse or carcase; and

(b) carry out tests, and take samples (including blood samples) from any horse, carcase or thing, for the purpose of diagnosis or epidemiological inquiry.

(8) For the purposes of this article, each of the following is a "relevant purpose"—

(a) monitoring or carrying out surveillance for—

(i) the African horse sickness virus;

(ii) antibodies to the African horse sickness virus; or

(iii) vectors; or

(b) ensuring compliance with this Order.

(9) In this article, "sentinel horse" means a horse that is used for the purpose of surveillance for the African horse sickness virus which, when first introduced or retained at any premises for that purpose, does not have antibodies to the African horse sickness virus in respect of which surveillance is being carried out.

Powers of inspectors in case of default

29. If any person fails to comply with a requirement in or under this Order, an inspector may take such steps as that inspector considers necessary to ensure the requirement is met at the expense of that person.

Marks applied under this Order

30. A person must not remove, obscure or erase a mark applied to any animal, carcase, animal product, vehicle or other thing under this Order unless an inspector has given written authority.

Notice following a contravention on movement

31.—(1) If a horse has been moved to any premises in contravention of any provision of this Order or any licence or notice served under this Order, an inspector may serve a notice on the main occupier of those premises requiring that—

(a) the horse, or any other horse on the premises, be detained on the premises; or

(b) any horse on the premises be moved to other premises specified in the notice.

(2) If a horse has been moved to other premises under such a notice, an inspector may serve a notice on any occupier of those other premises imposing such movement restrictions relating to horses on those premises as the inspector considers necessary to reduce the risk of spreading African horse sickness virus.

Compensation

32.—(1) The Scottish Ministers must pay compensation for horses killed under article 12 or 16(6)(e).

(2) No compensation is payable for a horse that, at the time it was killed, was affected with African horse sickness.

(3) The amount of any compensation payable under paragraph (1)—

(a) subject to sub-paragraph (b), is the value of the horse immediately before it was killed;

(b) may not in any case exceed £2500 for any horse.

(4) The value of the horse is—

(a) the amount determined in writing by the Scottish Ministers ("the Scottish Ministers' valuation"); or

(b) where the determination of the value has been referred to an appointed valuer under paragraph (5), the amount determined in writing by that valuer instead.

(5) If—

(a) the Scottish Ministers' valuation is less than £2500; and

(b) within 14 days after receiving the Scottish Ministers' valuation, the owner of the horse killed gives written notice to the Scottish Ministers disputing that valuation, with reasons,

the Scottish Ministers must refer the determination of the value to an appointed valuer.

(6) The appointed valuer must be a person—

(a) appointed jointly by the owner and the Scottish Ministers for the purpose of conducting a valuation under this article; or

(b) failing agreement on such appointment within 10 days of receipt of the notice given under paragraph (5), appointed by the Scottish Ministers for that purpose.

(7) The determination of value by the appointed valuer is final and binding on the Scottish Ministers and the owner (but this is subject to paragraph (3)(b)).

(8) Fees charged or expenses incurred by an appointed valuer for work done under this article must be paid—

(a) where the valuer's determination is equal to or less than the Scottish Ministers' valuation, by the owner;

(b) otherwise, by the Scottish Ministers.

(9) Nothing in this article authorises any delay in the killing of a horse for the purposes of controlling African horse sickness.

Main occupier of premises under restriction – access for welfare purposes

33. In relation to premises under any restriction under this Order, the main occupier must allow the owner of any horse on the premises, or any person acting on behalf of the owner, to enter the premises to feed or otherwise attend to the welfare of the horse during the period of restriction and for 7 days following its end.

False information

34. A person must not furnish information which that person knows to be false or misleading to any person acting in the execution of this Order.

Protection of inspectors acting in good faith

35.—(1) No inspector is personally liable in respect of any act done by that person in the performance or purported performance of the functions within the scope of that person's employment, if the person did that act in the honest and reasonable belief that that person's duty under these Regulations required or entitled the person to do so.

(2) Paragraph (1) does not relieve an enforcement authority from any liability in respect of acts of its officers.

Offences by bodies corporate, Scottish partnerships and unincorporated associations

36.—(1) Where—

(a) an offence under the Animal Health Act 1981(**1**) in relation to this Order has been committed by a body corporate or a Scottish partnership or other unincorporated association; and

(b) it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of—

(i) a relevant individual; or

(ii) an individual purporting to act in the capacity of a relevant individual,

the individual as well as the body corporate, Scottish partnership or unincorporated association commits the offence and is liable to be proceeded against and punished accordingly.

(2) In paragraph (1), "relevant individual" means—

(a) in relation to a body corporate—

(i) a director, manager, secretary or other similar officer of the body;

(ii) where the affairs of the body are managed by its members, a member;

(b) in relation to a Scottish partnership, a partner; or

(c) in relation to an unincorporated association other than a Scottish partnership, a person who is concerned in the management or control of the association.

Enforcement

37.—(1) Subject to paragraph (2), this Order is enforced by the local authority.

(2) The Scottish Ministers, in relation to cases of a particular description or in relation to particular cases, as they may direct, enforce this Order instead of the local authority.

(**1**) 1981 c.22.

Exceptional circumstances

38. A veterinary inspector may for the purpose of ensuring the health or welfare of any horse—

(a) license a person to carry out any action that is otherwise prohibited under this Order; or

(b) exempt a person, by notice, from any requirement under this Order.

Amendments

39.—(1) In the Specified Diseases (Notification and Slaughter) Order 1992(**2**), in article 2(1) omit the reference to African horse sickness.

(2) In the Specified Diseases (Notification) Order 1996(**3**), in Part 1 of Schedule 1 omit the reference to African horse sickness.

(**2**) S.I. 1992/3159, to which there are amendments not relevant to this Order.
(**3**) S.I. 1996/2628, to which there are amendments not relevant to this Order.