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SCOTTISH STATUTORY INSTRUMENTS

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**2000 No. 365**

**ANIMALS**

**ANIMAL HEALTH**

**The Enzootic Bovine Leukosis (Scotland) Regulations 2000**

<i>Made</i>	- - - -	<i>12th October 2000</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>18th October 2000</i>
<i>Coming into force</i>	- -	<i>1st November 2000</i>

The Scottish Ministers, in exercise of the powers conferred on them by section 2(2) of the European Communities Act 1972<sup>(1)</sup> 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 Enzootic Bovine Leukosis (Scotland) Regulations 2000 and shall come into force on 1st November 2000.

(2) These Regulations extend to Scotland and where they extend beyond Scotland, they do so only as a matter of Scots law.

**Interpretation**

2.—(1) In these Regulations—

“affected animal” means a bovine animal which is affected with enzootic bovine leukosis or is infected with the bovine leukosis virus;

“approved laboratory” means a laboratory approved by the Scottish Ministers to carry out testing of milk for enzootic bovine leukosis;

“bovine animal” means a bull, cow, steer, heifer or calf;

“carcase” means the carcase of a bovine animal and includes part of a carcase and the meat, bones, hide, skin, hooves, offal or other part of a bovine animal, separately or otherwise, or any portion thereof;

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

“Divisional Veterinary Manager” means the veterinary inspector appointed for the time being by the Scottish Ministers to receive information about affected or suspected animals, or the carcasses of such animals, for the area in which such animals or carcasses are situated;

“inspector” means an inspector appointed by a local authority for the purposes of enforcing these Regulations;

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

“premises” includes land, with or without buildings:

“suspected animal” means a bovine animal which is suspected of being affected with enzootic bovine leukosis because—

- (a) it is showing signs of swollen, painless lymph nodes or tumorous changes (other than haemangiomas, papillomas or warts) in parts of its body; or
- (b) a haematological examination of the animal has disclosed a lymphocyte count within the range specified in the Schedule to these Regulations; or
- (c) any other test carried out on the animal has indicated the possible presence of infection with the bovine leukosis virus;

“veterinary inspector” means a veterinary inspector appointed by the Scottish Ministers;

“veterinary surgeon” means a veterinary surgeon or veterinary practitioner registered under the Veterinary Surgeons Act 1966(3);

(2) All notices, licences or approvals issued under these Regulations shall be in writing and may be made subject to conditions and may be amended, suspended or revoked at any time.

#### **Notification of disease in bovine animals**

3.—(1) A person who is in possession of or has control of an affected or suspected animal, or a veterinary surgeon who examines any such animal, shall with all practicable speed give notice of that fact to—

- (a) an inspector; or
- (b) the Divisional Veterinary Manager.

(2) Where notice under paragraph (1) of this regulation is given to an inspector, the inspector shall immediately transmit the information to the Divisional Veterinary Manager responsible for that area.

(3) A person who is in possession or in charge of an affected animal or a suspected animal shall detain it on the premises where it is kept until it has been examined by a veterinary inspector.

#### **Notification of disease in carcasses**

4.—(1) Any person who is in possession or in charge of the carcass of a bovine animal, showing signs of tumorous changes (other than haemangiomas, papillomas or warts) in the lymph nodes or any part thereof, shall with all practicable speed, give notice of that fact to the Divisional Veterinary Manager responsible for that area.

(2) A person who is in possession or in charge of a carcass to which paragraph (1) of this regulation applies, shall detain it on the premises where it is kept until it has been examined by a veterinary inspector or until a veterinary inspector has determined that an inspection is not required.

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(2) 1994 c. 39.

(3) 1966 c. 36.

### **Notification of disease in laboratory samples**

5.—(1) Subject to paragraph (2) below, where by reason of a laboratory examination of a sample taken from a bovine animal, evidence of the existence of enzootic bovine leukosis is identified, the person in charge of the laboratory shall, within 24 hours notify the Divisional Veterinary Manager of the area from which the sample was taken or in which the laboratory is situated, of that fact.

(2) The obligation to give notification in paragraph (1) shall not apply where enzootic bovine leukosis has been deliberately introduced into a laboratory sample or a bovine animal from which such sample has been taken.

### **Sampling of milk for testing for evidence of the existence of enzootic bovine leukosis**

6.—(1) Any person who buys milk from the owner or person in charge of a herd of dairy cows in Scotland for resale as milk or milk products shall—

- (a) select an approved laboratory to carry out testing of such milk for enzootic bovine leukosis;
- (b) notify the Scottish Ministers of the laboratory selected;
- (c) upon notification by the Scottish Ministers, and at that person's own expense, submit to that laboratory for testing for evidence of enzootic bovine leukosis two samples of milk which shall be taken in every fifth calendar year at a minimum of four months apart and such samples shall include milk from all the dairy cows in that herd;
- (d) add such preservative to the sample as may be requested by the person in charge of the laboratory; and
- (e) ensure that the sample is labelled with—
  - (i) a bar code or other device which enables the laboratory to identify the herd or part of a herd from which the sample was taken; and
  - (ii) the date on which the sample was taken.

(2) A person is exempt from the duty imposed by paragraph (1) above, if that person only purchases pre-packed raw milk for resale—

- (a) in the container in which that person received it with the fastenings unbroken;
- (b) from a vehicle which is lawfully used as shop premises; and
- (c) direct to the ultimate consumer,

(3) For the purposes of this regulation,

- (a) “ultimate consumer” means any person who buys milk other than for the purposes of—
  - (i) resale;
  - (ii) a catering establishment; or
  - (iii) a manufacturing business; and
- (b) “catering establishment” means a restaurant, canteen, club, public house, school, hospital or similar establishment (including a vehicle or a fixed or mobile stall) where, in the course of a business, food is prepared for delivery to the ultimate consumer and is ready for consumption without further preparation.

(4) No person shall in any way treat, other than by adding preservative in accordance with paragraph (1)(d) above, or tamper with any sample or its label and a person shall be deemed to have treated or tampered with a sample if that person does anything in relation to it which is likely to affect the result of the testing required under this regulation.

(5) The person in charge of an approved laboratory shall—

- (a) maintain a record of those herds, the milk from which is sent to it for testing under paragraph (1) above;
  - (b) notify the Scottish Ministers forthwith if a sample is not received from one of the herds listed in its records held under sub-paragraph (a);
  - (c) notify the Scottish Ministers within 24 hours where a sample has been tested for evidence of the existence of enzootic bovine leukosis and the result is positive;
  - (d) notify the Scottish Ministers within one month where a sample has been tested for evidence of the existence of enzootic bovine leukosis and the result is negative; and
  - (e) maintain a record of the result of all the tests carried out for evidence of the existence of enzootic bovine leukosis for a period of one year from the date of the test.
- (6) If any person fails to take any action required under the provisions of paragraph (1) above, a veterinary inspector may, without prejudice to any proceedings for an offence arising out of such default, take or cause to be taken such action and any expenses reasonably incurred in so doing shall be recoverable by the Scottish Ministers from the person in default.

#### **Veterinary inquiry as to the existence of enzootic bovine leukosis**

7.—(1) Where by reason of information received by a veterinary inspector under regulations 3, 4, 5 or 6, or otherwise, there is reason to believe that enzootic bovine leukosis exists or has existed on any premises, the veterinary inspector shall with all practicable speed, take such steps as may be necessary to establish—

- (a) whether that disease is enzootic bovine leukosis;
- (b) the length of time that disease has existed on the premises;
- (c) the possible origin of the disease on the premises.

(2) For the purposes of an inquiry under paragraph 1 above, a veterinary inspector may, on production on demand of his authority—

- (a) examine any bovine animal or carcase on the premises;
- (b) enter on to any part of the premises;
- (c) take such samples as may be required for the purpose of diagnosis from any bovine animal or carcase on the premises; or
- (d) examine any records in whatever form on the premises and take copies of such records.

(3) The occupier of the premises, employees of the occupier, any person who is or has been in possession or charge of any bovine animal which is or has been on the premises and any veterinary surgeon who has been attending any bovine animal on the premises or has been consulted about such animal or carcase, shall—

- (a) give such reasonable facilities and comply with such reasonable requirements as may be necessary for the purpose of the inquiry; and
- (b) provide any relevant information to the veterinary inspector or the Scottish Ministers relating to the location and movements of that bovine animal or carcase and as to the location and movements of any other bovine animal or carcase (which is or has been on the premises) with which that animal has been in contact.

(4) A veterinary inspector entering premises under the provisions of this regulation shall, if required by the occupier or person in charge, state the reasons for entering.

(5) A veterinary inspector entering premises under the provisions of this regulation may take with him such other person as may be considered necessary for the purposes of the inquiry.

### **Powers of veterinary inspectors to prohibit or control movement of bovine animals**

8. If a veterinary inspector has reasonable grounds for believing that the movement of any bovine animal from any place may give rise to the risk of enzootic bovine leukosis being spread, the veterinary inspector may, for the purpose of preventing the spread of that disease, serve a notice on the owner or occupier of that place or the owner or person in charge of the bovine animal—

- (a) prohibiting the movement of that animal;
- (b) requiring physical separation from other bovine animals on the premises; or
- (c) imposing such conditions in respect of its movement as may be considered expedient.

### **Marking of affected animals**

9.—(1) The owner or person in charge of bovine animals kept on any premises shall, if so required by notice served by a veterinary inspector, mark such animals in accordance with the requirements of the veterinary inspector.

(2) A veterinary inspector may paint, stamp, clip, tag or otherwise mark bovine animals kept on any premises.

(3) No person shall alter, remove, obliterate, deface or attempt to alter, remove, obliterate or deface any such mark.

### **Restrictions on the use of semen**

10. A veterinary inspector may serve a notice on the owner or person in charge of any affected or suspected animals kept on any premises prohibiting the use of semen from such animals, or restricting its use.

### **Cleansing and disinfection**

11.—(1) A veterinary inspector may serve a notice on the occupier of any premises where there is or has been a suspected animal, or the carcase of such an animal, requiring the occupier at the occupier's own expense to cleanse and disinfect—

- (a) the premises or any part thereof; or
- (b) any apparatus, equipment or thing used in connection with any affected animal, suspected animal or the carcase of such an animal.

(2) If the requirements of a notice served under paragraph (1) above are not complied with, a veterinary inspector may, without prejudice to any proceedings for an offence arising out of such default, carry out or cause to be carried out, such cleansing and disinfection and any expenses reasonably incurred by the veterinary inspector shall be recoverable by the Scottish Ministers from the person in default.

(3) For the purposes of exercising the powers under paragraph (1) above a veterinary inspector may, on production on demand of the veterinary inspector's authority, enter the premises to which a notice served under this regulation relates, and may be accompanied by such persons as are considered necessary and the veterinary inspector shall, if so required by the occupier or person in charge of the premises, state the reasons for entering.

### **Special provisions for imported bovine animals**

12. The provisions of these Regulations shall not apply in relation to approved premises within the meaning of the Importation of Animals Order 1977(4) and shall only apply to imported bovine

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(4) S.I. 1977/944.

animals from the time specified in the licence in respect of those animals under article 11(5) of that Order.

### **Slaughter of bovine animals affected with enzootic bovine leukosis**

**13.—**(1) The Scottish Ministers may, if they think fit, cause to be slaughtered—

- (a) any affected or suspected animal; or
- (b) any bovine animal which has been exposed to the infection of enzootic bovine leukosis.

(2) The Scottish Ministers may pay for bovine animals slaughtered under this regulation such compensation as they think fit.

### **Notice of intended slaughter**

**14.—**(1) Where the Scottish Ministers propose to slaughter a bovine animal under regulation 13 above, a veterinary inspector shall serve a notice of intended slaughter on the owner or person in charge of such animal informing that person of the proposed slaughter and requiring that person to surrender the animal for slaughter (or to detain the animal pending slaughter) and to isolate it as far as practicable from other animals which are not specified in the notice.

(2) The person on whom such a notice is served shall not move the animal off the premises or part thereof except under the authority of a licence issued by a veterinary inspector and in accordance with the terms thereof.

### **Powers of inspectors**

**15.—**(1) For the purpose of enforcing these Regulations, an inspector shall, on producing, if so required, some duly authenticated document showing that inspector's authority, have a right at all reasonable times to enter any premises, other than any part of any premises occupied as a private dwelling.

(2) An inspector may—

- (a) inspect any bovine animal or any carcase on the premises;
- (b) examine any records in whatever form on the premises and take copies of those records; or
- (c) take with him such other person as may be considered necessary for any purpose in relation to the enforcement of these Regulations.

### **Offences**

**16.—**(1) Any person who—

- (a) contravenes, or fails to comply with—
  - (i) any of the provisions of these Regulations, with the exception of regulation 6(5); or
  - (ii) any notice or requirement contained in a notice; or
- (b) fails without reasonable excuse to comply with regulation 6(5) or with any requirement imposed by a veterinary inspector or an inspector in exercise of any powers under these Regulations or obstructs any veterinary inspector or inspector in the exercise of those powers,

shall be guilty of an offence.

(2) A person found guilty of an offence under paragraph (1) above shall be liable on summary conviction to a fine not exceeding the statutory maximum.

(3) Paragraph (1) above shall not apply to anything done or omitted by a veterinary inspector or an inspector under these Regulations.

### **Enforcement**

**17.**—(1) Subject to paragraph (2) below, these Regulations shall be enforced by the local authority in its geographical area.

(2) The Scottish Ministers may direct, in relation to a particular case or a particular class of case, that the duty imposed on a local authority by paragraph (1) above shall be discharged by the Scottish Ministers and not by the local authority.

### **Revocations**

**18.** The Enzootic Bovine Leukosis Order 1997<sup>(5)</sup> is hereby revoked.

St Andrew's House,  
Edinburgh  
12th October 2000

*ROSS FINNIE*  
A member of the Scottish Executive

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

## SCHEDULE

### Haematological testing of bovine animals

<i>Age of Bovine Animal</i>	<i>Abnormal Range No. of Lymphocytes per cubic millimetre</i>	<i>S.I. Units</i>
Under 1 year	more than 11,000	more than 11.0
1 year but under 2 years	more than 10,000	more than 10.0
2 years but under 3 years	more than 8,500	more than 8.5
3 years but under 4 years	more than 7,500	more than 7.5
4 years but under 5 years	more than 6,500	more than 6.5
5 years but under 6 years	more than 6,000	more than 6.0
6 years and over	more than 5,500	more than 5.5

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations revoke and re-enact with some amendments the Enzootic Bovine Leukosis Order 1997 (S.I. [1997/757](#)) in relation to Scotland.

These Regulations implement the provisions relating to milk in Council Directive [64/432/EEC](#) as amended (on health problems affecting intra-Community trade in bovine animals and swine) (O.J. No. L 121, 29.7.64, p.1977) and Council Directive [77/391/EEC](#) as amended (introducing Community measures for the eradication of brucellosis tuberculosis and leukosis) (O.J. No. L 145, 13.6.77, p.44). These Directives require the operation of a monitoring and testing programme in order to achieve and maintain official enzootic bovine leukosis-free status.

The principal changes made by these Regulations relate to the arrangements for testing milk for evidence of enzootic bovine leukosis and the removal of the list of approved laboratories.

Notice must be given to the Divisional Veterinary Manager if any animal, carcase or laboratory sample is found to be infected with enzootic bovine leukosis (regulations 3, 4 and 5).

Regulation 6 sets out the duties of purchasers of milk for resale to ensure that milk is sent for testing to one of the approved laboratories.

The person in charge of an approved laboratory must notify the Scottish Ministers of any positive test results within 24 hours and negative test results within one month. That person must also maintain records of all the tests carried out for a period of one year from the date of the test (regulation 6(5)).

Regulations 7 to 11 provide veterinary inspectors with powers to inquire as to the existence of enzootic bovine leukosis, to control the movement of and to mark affected animals, as well as requiring cleansing and disinfection. Regulations 13 and 14 give the Scottish Ministers power to order the slaughter of affected animals.

Regulation 15 gives powers to inspectors.



**Status:** *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

Regulation 16 sets out offences and penalties. The maximum penalty for an offence under the Regulations is the statutory maximum (currently £5000).

These Regulations are enforced by the local authority. The Scottish Ministers however have the power to direct in particular cases that they shall enforce the Regulations.

A Regulatory Impact Assessment in relation to these Regulations has been placed in the Scottish Parliament Information Centre and copies can be obtained from the Scottish Executive Rural Affairs Department, LAHW, Room 350 Pentland House, 47 Robb's Loan, Edinburgh EH14 1TY.