

2003 No. 91

ANIMALS

ANIMAL HEALTH

The Bluetongue (Scotland) Order 2003

Made 13th February 2003

Coming into force 19th February 2003

The Scottish Ministers, in exercise of the powers conferred by sections 1, 7(1), 8(1), 15(4), 17(1), 23, 25, 32(2), 34, 35, 36, 83(2) and 88(2) of the Animal Health Act 1981(a) and of all other powers enabling them in that behalf, hereby make the following Order:

Citation, commencement and extent

1.—(1) This Order may be cited as the Bluetongue (Scotland) Order 2003 and shall come into force on 19th February 2003.

- (2) Subject to paragraph (3), this Order extends to Scotland only.
- (3) Insofar as it extends beyond Scotland, this Order does so only as a matter of Scots Law.

Interpretation

2.—(1) In this Order—

- “the Act” means the Animal Health Act 1981;
- “animal” means a ruminating animal;
- “carcase” means the carcase of a ruminating animal;
- “confirmation of disease” means a declaration by the Chief Veterinary Officer under article 10(1);
- “the Directive” means Council Directive 2000/75/EC of 20th November 2000 laying down specific provisions for the control and eradication of bluetongue(b);
- “diseased” means affected with bluetongue;
- “Divisional Veterinary Manager” means a veterinary inspector authorised by the Scottish Ministers to receive information about animals or carcasses diseased or suspected of being diseased for the area in which such animals or carcasses are situated;
- “embryo” means the embryo of a ruminating animal;
- “keeper” means any person having ownership of, or charged with keeping animals, whether or not for financial return;
- “ovum” means the ovum of a ruminating animal;
- “premises” includes land, vehicles, vessels and aircraft, but does not include a place used only as a dwelling;
- “semen” means the semen of a ruminating animal;
- “sentinel animals” means animals which do not have antibodies to bluetongue and which are used for surveillance for it;

(a) 1981 c.22. See section 86(1) for definition of “the Ministers”. The functions of the Ministers of the Crown were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(b) O.J. No. L 327, 22.12.2000, p.74.

“thing” includes a carcase, embryo, ovum, semen, fodder, litter, dung, straw, slurry, utensil, pen, hurdle, vehicle, equipment and clothing;

“vector” means an insect of the species *Culicoides imicola* or any other insect of the genus *Culicoides* which, in the opinion of the Chief Veterinary Officer, is capable of transmitting bluetongue;

“vessel” has the meaning given to “ship” by section 170 of the Merchant Shipping Act 1995(a).

(2) Any determination, authorisation, licence, notice or direction under this Order shall be in writing, may be subject to conditions and may be amended, suspended or revoked by notice in writing at any time and any declaration under this Order shall be in writing and may be amended, suspended or revoked by notice in writing at any time.

(3) Unless the context otherwise requires, any reference in this Order to a numbered article or paragraph is a reference to the article or paragraph of the article so numbered in this Order.

Extension of definition of “disease”

3. The definition of “disease” in section 88(1) of the Act, for all of the purposes of the Act, is extended to include bluetongue.

Exemption for activities authorised under the Specified Animal Pathogens Order 1998

4. This Order shall not apply to anything authorised by a licence issued under article 4 of the Specified Animal Pathogens Order 1998(b) in respect of bluetongue.

Vaccination against bluetongue

5. No animal shall be vaccinated against bluetongue, unless the vaccination of that animal has been authorised by the Scottish Ministers.

Initial requirements where disease is known or suspected to exist

6.—(1) Any person who knows or suspects that an animal or carcass in the possession of, under the charge of, or being examined or inspected by, that person is diseased, shall—

- (a) immediately notify the Divisional Veterinary Manager; and
- (b) refrain from moving any animal or carcass on or off the premises where the animal or carcass known to be or suspected as being diseased is located, except as authorised by a licence issued by an inspector.

(2) Any person who analyses samples taken from any animal or carcass and who finds evidence of antibodies or antigens to bluetongue or to any vaccine for bluetongue shall immediately notify the Divisional Veterinary Manager.

Isolation of animals

7. The occupier of any premises or any keeper who knows or suspects that an animal or carcass in the possession or under the charge of that occupier or keeper is diseased shall, so far as practicable, ensure that all animals on the premises are kept indoors.

Notification by an inspector

8.—(1) If an inspector knows or suspects that bluetongue exists on any premises, that inspector shall immediately serve a notice on the occupier of those premises or on the keeper of any animals on those premises requiring that—

- (a) no animal, carcass, ovum, semen or embryo shall be moved to or from the premises;
- (b) an inventory of all animals on the premises is kept, recording, for each species—
 - (i) the number dead;
 - (ii) the number alive which appear to the occupier or keeper to be infected with bluetongue; and

(a) 1995 c.21.
(b) S.I. 1998/463.

- (iii) the number alive which do not appear to the occupier or keeper to be infected with bluetongue;
- (c) this inventory is kept up to date to take account of animals which are born or die, including details of the dates of birth and death of such animals;
- (d) all animals on the premises are kept indoors or are kept at such place and in such manner as may be directed by an inspector;
- (e) the premises and animals on them are subject to such vector control measures as an inspector may direct; and
- (f) carcasses are destroyed, buried or disposed of in such manner as an inspector may direct.

(2) A veterinary inspector or an inspector acting under the direction of a veterinary inspector may also serve such a notice on the occupier of premises (“the first premises”) whose location, geographical situation or contacts with other premises where bluetongue is known or suspected to exist (which other premises may be in Scotland or elsewhere) provide grounds for suspecting the existence of bluetongue, exposure to it or the presence of vectors on the first premises.

(3) Notices may be served under paragraphs (1) and (2) whether or not notification has been given under article 6.

Powers of veterinary inspectors and officers

9.—(1) For the purposes of the enforcement of this Order, a veterinary inspector may enter on any premises in respect of which a notice has been served under article 8 or 10 and may—

- (a) examine any animal, carcase or thing;
- (b) require the detention, isolation, restraint or treatment of any animal;
- (c) require the slaughter of any animal which is affected by bluetongue or which that veterinary inspector suspects may be affected by bluetongue or have been exposed to infection;
- (d) make such tests and take such samples (including blood samples) from any animal, carcase or thing as that veterinary inspector may consider necessary for the purpose of diagnosis;
- (e) mark for identification purposes any animal, carcase or thing;
- (f) collect vectors and set traps for the collection of vectors;
- (g) implement such other vector control measures as that veterinary inspector deems necessary;
- (h) require the destruction, burial, disposal or treatment of any thing;
- (i) require the cleansing and disinfection of any part of the premises or of any person, animal or thing on the premises;
- (j) require the occupier, any veterinary surgeon who has attended any animal on the premises and any other person who has been in charge of or in contact with any such animal to inform the veterinary inspector of the identity of any other animal or other premises with which any such animal may have come into contact.

(2) For the purposes of the enforcement of this Order, an officer authorised by the Scottish Ministers and acting under the direction of a veterinary inspector may enter on any part of premises in respect of which a notice has been served under article 8 or 10 and may—

- (a) collect vectors and set traps for the collection of vectors; and
- (b) implement such other vector control measures as a veterinary inspector may deem necessary.

Measures when bluetongue is confirmed

10.—(1) The Chief Veterinary Officer may make a declaration that the bluetongue virus is circulating in such an area as shall be specified in that declaration and shall include all premises where bluetongue is known to exist.

(2) On confirmation of disease, a veterinary inspector or an inspector acting under the direction of a veterinary inspector shall serve notices on the occupiers of all premises or on the keepers of animals on those premises falling wholly or partly within—

- (a) a 20 kilometre radius around premises where bluetongue is known to exist, whether or not within Scotland; or

- (b) subject to paragraph (5) such other area, whether or not within Scotland, as the Chief Veterinary Officer may determine having regard to epidemiological, geographical, ecological and meteorological factors.

(3) Such notice shall require the occupier or keeper to comply with such of the requirements set out in article 8 as that inspector shall specify and with any other requirements which that inspector considers necessary.

- (4) Such notice need not be served on those already notified under article 8.

(5) The Chief Veterinary Officer may only make a determination of an area which includes an area outwith Scotland under paragraph (2)(b) if it is necessary or expedient in order to prevent the spread of bluetongue to or within Scotland.

Restrictions in infected areas

11.—(1) Where, by order, the Scottish Ministers declare an area to be an infected area to which this Order applies, and which area shall extend so as to include both the protection zone and the surveillance zone specified in Article 8 of the Directive, the following provisions in this article and article 12 shall apply to that area, save as expressly varied or excepted by such order.

(2) Any premises which are partly within an infected area shall be deemed to be wholly within that area.

(3) Except as authorised by a licence issued by an inspector in accordance with the advice of the Chief Veterinary Officer, no person shall—

- (a) move any animal, carcase, ovum, semen or embryo from the premises on which they are kept; or
- (b) move any animal, carcase, ovum, semen or embryo on public or private roads (other than the service roads of premises).

Powers of veterinary inspectors and officers in an infected area

12.—(1) When an infected area has been declared, veterinary inspectors and officers authorised by the Scottish Ministers shall, in respect of premises within the infected area, have the powers they have under article 9.

(2) A veterinary inspector may also—

- (a) require the occupier of premises in that part of an infected area which does not form part of the surveillance zone specified in Article 8 of the Directive or the keeper of any animal on those premises to allow the vaccination of any animal kept there; and
- (b) require the occupier or keeper to retain animals for use as sentinel animals or to allow the introduction of sentinel animals onto those premises.

Slaughter of animals

13. Section 32 of the Act (which relates to slaughter in diseases other than those specified in section 31) shall apply to bluetongue.

General duties of occupiers and keepers

14.—(1) An occupier of premises to which this Order applies and a keeper of any animal on such premises shall—

- (a) comply with the requirements of notices and directions served on them;
- (b) allow an inspector to enter premises referred to in notices served upon them;
- (c) compile and maintain such records and inventories as may be required by this Order or as an inspector may reasonably require and produce such records and inventories to an inspector on request;
- (d) refrain from damaging, interfering with or removing any traps set for the collection of vectors;
- (e) refrain from defacing, obliterating or removing any mark made by a veterinary inspector under article 9; and
- (f) provide such reasonable assistance and information as an inspector may reasonably require for the purpose of carrying out the functions of that inspector under this Order.

(2) Paragraph (1)(a) shall not apply to the extent that a licence permitting movement has been granted under articles 6(1)(b) or 11(3).

Powers of inspectors in case of default

15.—(1) If a person served with a notice or a direction under this Order fails to comply with any requirement of such a notice or direction, an inspector may, without prejudice to any proceedings for an offence arising out of such default, take all such steps as may be necessary to ensure that such requirement is met.

(2) The amount of any expenses reasonably incurred by the inspector under paragraph (1) shall be recoverable on demand by the Scottish Ministers or by the local authority, as the case may be, from the person in default.

General powers of inspectors

16. An inspector or officer of the Scottish Ministers who enters premises by virtue of this Order may take on to those premises—

- (a) a vehicle (provided entry with such a vehicle is reasonably practicable);
- (b) such equipment as that inspector or officer considers necessary; and
- (c) such other person as that inspector or officer considers necessary for any purpose in relation to the execution and enforcement of this Order.

Enforcement

17. This Order shall, except where otherwise expressly provided, be executed and enforced by the local authority.

Amendment of other Orders

18.—(1) In article 2(1) (application of section 32 of the Act) of the Specified Diseases (Notification and Slaughter) Order 1992(a), the entry for “Bluetongue” shall be omitted.

(2) In Part I of Schedule I to the Specified Diseases (Notification) Order 1996(b) (which lists certain diseases to be notified for the purposes of the Act), the entry for “Bluetongue” shall be omitted.

ROSS FINNIE
A member of the Scottish Executive

St Andrew’s House,
Edinburgh
13th February 2003

(a) S.I. 1992/3159.
(b) S.I. 1996/2628.

EXPLANATORY NOTE

(This note is not part of the Order)

1. This Order implements Council Directive 2000/75/EC laying down specific provisions for the control and eradication of bluetongue (O.J. No. L 327, 22.12.2000, p.74).

2. Articles 1, 2 and 3 contain introductory provisions, including definitions of certain terms used in the Order. Article 4 provides that certain activities authorised under the Specified Animal Pathogens Order 1998 (S.I. 1998/463) are not covered by the Order. Article 5 prohibits unlicensed vaccination against bluetongue.

3. Articles 6 to 9 concern measures to be taken when bluetongue is known or suspected to exist on premises. Articles 6 and 7 provide for notification to be given to the Divisional Veterinary Manager and for the isolation of animals when disease is known to exist or is suspected. Article 8 provides for the service of notices by inspectors requiring compliance with certain restrictions. The general powers of veterinary inspectors and of officers of the Scottish Ministers are set out in sections 63 and 64A of the Animal Health Act 1981 ("the Act"). Article 9 of this Order provides the specifics as to the exercise of certain of these powers when an outbreak of bluetongue is suspected.

4. Articles 10 to 13 concern measures to be taken when an outbreak of bluetongue has been confirmed. Article 10 provides for the service of notices. Articles 11 and 12 set out the restrictions which apply in areas declared to be infected areas by the Scottish Ministers under the Act. Article 13 applies provisions in the Act relating to the slaughter of animals.

5. Article 14 sets out the general duties of occupiers and keepers under the Order. Article 15 sets out the powers of inspectors when the requirements in notices served by them are not complied with. Article 16 sets out their general powers. Article 17 provides that the Order shall be executed and enforced by the local authority. Article 18 amends the Special Diseases (Notification and Slaughter) Order 1992 (S.I. 1992/3159) and the Specified Diseases (Notification) Order 1996 (S.I. 1996/2628) (which dealt with the notification of bluetongue, and the slaughter of infected animals) by removing the references to bluetongue from them.

6. Failure to comply with this Order is an offence under section 73 of the Animal Health Act 1981.

7. A Regulatory Impact Assessment has been prepared and placed in the Scottish Parliament Information Centre. Copies can be obtained from the Scottish Executive Environment and Rural Affairs Department, Pentland House, 47 Robb's Loan, Edinburgh EH14 1TY.

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