

**2005 No. 434**

**ANIMALS**

**ANIMAL HEALTH**

**The Tuberculosis (Scotland) Order 2005**

*Made* - - - - - *5th September 2005*

*Coming into force* - - - - - *23rd September 2005*

The Scottish Ministers in exercise of the powers conferred by sections 1, 7(1), 8(1), 15(4), 25, 32(2), 83(2), 87(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:

**Title, commencement and extent**

1.—(1) This Order may be cited as the Tuberculosis (Scotland) Order 2005 and shall come into force on 23rd September 2005.

(2) This Order extends to Scotland only.

**Interpretation**

2.—(1) In this Order, unless the context otherwise requires—

“the Act” means the Animal Health Act 1981;

“affected animal” means a bovine animal which is affected with tuberculosis of the udder or is giving tuberculous milk, or is affected with tuberculous emaciation, or is excreting or discharging tuberculous material, or is affected with a chronic cough and shows clinical signs of tuberculosis, and includes a reactor, and “suspected animal” shall be construed accordingly;

“approved disinfectant” means a disinfectant listed in the Diseases of Animals (Approved Disinfectants) Order of 1978(b) as being approved for the time being for use against tuberculosis;

“bovine animal” means domestic cattle of the genus *Bos*, *Bubalus bubalis* or *Bison bison*;

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

“the Divisional Veterinary Manager” means the veterinary inspector appointed by the Scottish Ministers to receive information about animals or carcasses affected or suspected of being affected with specified diseases, for the area in which the animal or carcase is;

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

(b) S.I. 1978/32; relevant amending instruments are S.I. 1978/934 and 1999/919, S.S.I. 2001/45 and 51, S.S.I. 2003/334, S.S.I. 2004/537 and S.S.I. 2005/99.

“high incidence area” means an area within Great Britain where bovine animals are required to be subject to routine tuberculin testing on a yearly or two yearly basis in accordance with the requirements of Council Directive 64/432/EEC(a);

“holding” means any establishment, construction or, in the case of an open-air farm, any place in Great Britain in which cattle are held, kept or handled but does not include any agricultural show, market or slaughterhouse;

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

“milk” includes cream and separated or skimmed milk;

“officer” means a veterinary inspector or other officer of the Scottish Ministers;

“premises” includes land whether with or without buildings;

“reactor” means a bovine animal which gives rise to a reaction consistent with its being affected with tuberculosis when tested for that disease;

“slaughterhouse” means any premises used for the commercial slaughter or killing of animals, whether or not the flesh of those animals is intended for human consumption, and includes any place available in that connection for the confinement of animals while awaiting slaughter there or for keeping or subjecting to any treatment or process, products of the slaughtering of animals there;

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

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

(2) A reference in this Order to anything done in writing or produced in written form includes a reference to an electronic communication, as defined in the Electronic Communications Act 2000(d), which has been recorded and is consequently capable of being reproduced.

### **Notices, licences etc**

**3.**—(1) All notices, licences, authorisations and instructions under this Order shall be in writing, may be made subject to conditions, and may be amended, suspended or revoked in writing at any time.

(2) Where a bovine animal is moved under the authority of a licence issued under this Order—

- (a) the animal shall be accompanied throughout such movement by the licence; and
- (b) the person in charge of the animal being so moved shall, on demand made under this Order by an officer, by an inspector of the local authority or a constable—
  - (i) furnish the name and address of that person;
  - (ii) produce the licence; and
  - (iii) allow a copy or extract from the licence to be taken.

### **Extension of definition of “disease” and power to slaughter on account of tuberculosis**

**4.** For the purposes of section 32 of the Act (power to slaughter animals), the definition of “disease” in section 88(1) of the Act is hereby extended to include tuberculosis, and section 32 of the Act shall apply to that disease.

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

**5.**—(1) A person who has possession of, or who has the charge of, on any premises an affected animal (other than a reactor) or a suspected animal, and a veterinary surgeon who, in the course of

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(a) O.J. L 121, 29.7.64, p.1977; relevant amending instruments are O.J. L 198, 15.7.98, p.22 and O.J. L 196, 4.7.00, p.35.

(b) 1994 c.39.

(c) 1966 c.36; relevant amending instrument is S.I. 2003/2919.

(d) 2000 c.7.

the practice of that veterinary surgeon, examines any such animal shall, as soon as practicable, notify an inspector of the local authority or the Divisional Veterinary Manager.

(2) Where an inspector of the local authority has been notified of a suspected or affected animal under paragraph (1), that inspector shall immediately inform the Divisional Veterinary Manager.

(3) A person who has possession of, or who has the charge of, an affected animal (other than a reactor) or a suspected animal, shall forthwith detain it on the premises where it then is and isolate it as far as practicable from other bovine animals, and shall adopt precautions with respect to milk produced by the affected or suspected animal as if a notice under article 7 in respect of that animal had already been served on such person.

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

**6.**—(1) A person who has possession of, or who has the charge of, on any premises, a carcass which is affected with or suspected of being affected with tuberculosis, and—

- (a) a veterinary surgeon who, in the course of the practice of that veterinary surgeon, examines any such carcass; and
- (b) a person who in the course of carrying out duties under the Fresh Meat (Hygiene and Inspection) Regulations 1995<sup>(a)</sup> or whilst inspecting meat for any other purpose, inspects any such carcass,

shall as soon as practicable, give notice of the fact to the Divisional Veterinary Manager.

(2) A person who has possession of, or who has the charge of, a carcass to which paragraph (1) applies shall detain it, or so much of it as is affected with or suspected of being affected with tuberculosis, on the premises where it then is until it has been examined by a veterinary inspector.

#### **Veterinary enquiry as to the existence of disease**

**7.**—(1) Where on receipt of information under article 5 or 6 or otherwise, there is reason to believe that there is on any premises an affected animal (other than a reactor) or a suspected animal or a carcass which is affected with or suspected of being affected with tuberculosis, a veterinary inspector shall, as soon as practicable, take such steps as may be necessary to verify that information.

(2) For the purpose of carrying out the duties under paragraph (1), a veterinary inspector may examine any bovine animal or carcass on the premises and take such samples as may be required for the purpose of diagnosis from any such bovine animal or carcass.

(3) A veterinary inspector shall serve a notice on the owner or person in charge of any bovine animal examined by that inspector, which in the opinion of the inspector is an affected or suspected animal, requiring the owner or person in charge of the animal to—

- (a) detain the animal that is the subject of the notice in accordance with the requirements of that notice and keep it isolated from other bovine animals;
- (b) where appropriate take steps to ensure that the milk produced by the animal is not mixed with other milk and is boiled or otherwise sterilised and that any utensil with which such milk has been in contact before being so treated shall be thoroughly cleansed and scalded with steam or boiling water before being used again; and
- (c) ensure that no bovine animal is moved on to or off the premises or such part of the premises as is specified in the notice except under the authority of a licence issued by a veterinary inspector.

(4) A notice served under this article shall remain in force until—

- (a) the animal to which it relates has died, or has been slaughtered pursuant to section 32 of the Act; or
- (b) withdrawn by a further notice in writing served by a veterinary inspector.

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(a) S.I. 1995/539 to which there are amendments not relevant to this Order.

## **Tuberculin tests and valuation**

8.—(1) The owner or person in charge of any bovine animal shall comply with all reasonable requirements of an officer with a view to—

- (a) facilitating the examination of that animal by a veterinary inspector;
- (b) the application to it of any diagnostic test for tuberculosis; or
- (c) the valuation of the animal in a case where the Scottish Ministers intend to cause it to be slaughtered under section 32 of the Act in its application to tuberculosis,

and in particular shall arrange, if so required, for the collection, penning and securing of any such animal and the movement of the animal to and from any premises specified by the officer for the purposes of facilitating such examination, testing or valuation.

(2) The owner or person in charge of any bovine animal on a holding in a high incidence area in Scotland shall not allow that animal to be moved from the holding unless a diagnostic test for tuberculosis has been applied to it no more than 60 days before the date of its movement from the holding.

(3) The occupier of a holding in Scotland shall not allow to enter that holding any bovine animal from a holding in a high incidence area unless that animal has had applied to it a diagnostic test for tuberculosis no more than 60 days before the date of its movement from the holding.

(4) Any bovine animal on a holding in Scotland which has been moved from a holding in a high incidence area shall have a diagnostic test for tuberculosis applied to it no fewer than 60 days and no more than 120 days after the date on which it first arrives at a holding in Scotland.

(5) Subject to paragraph (7), the owner or person in charge of any bovine animal to which a test must be applied in accordance with paragraphs (2) or (4) shall arrange for a veterinary inspector to apply the test and shall meet the expense of it.

(6) Where a bovine animal on a holding in Scotland which has been moved from a holding in a high incidence area has not had applied to it a diagnostic test for tuberculosis no more than 60 days before the date of its movement from the holding in the high incidence area, the owner or person in charge of the animal shall—

- (a) ensure that test is applied to the animal as soon as reasonably practicable after it is known to that person that a test was not applied before the animal was moved from the high incidence area;
- (b) where the result of the test carried out under paragraph (a) is read by and to the satisfaction of a veterinary inspector, ensure that a second test is applied to the animal no fewer than 60 days and no more than 120 days from the date of application of the first test; and
- (c) subject to paragraph (7), the owner or person in charge of an animal to which a test must be applied in accordance with paragraph (a) or (b) shall arrange for a veterinary inspector to apply the test and shall meet the expense of it.

(7) Paragraphs (5) and (6)(c) shall not apply where any bovine animal has had applied to it within the relevant periods a diagnostic test for tuberculosis otherwise than in order to meet the requirements of paragraphs (2) or (4).

(8) Paragraphs (2), (3), (6) and (7) shall not apply to any bovine animal which is under 42 days of age at the time that it is moved from a holding in a high incidence area.

(9) No person shall test a bovine animal with tuberculin, except with the consent of the Scottish Ministers, and a person to whom any such consent is given shall, as soon as the result of the test is known, report it, as soon as practicable, to the Scottish Ministers.

(10) Where a diagnostic test for tuberculosis has been applied to a bovine animal by a veterinary inspector, no person shall move that animal from the premises on which it is kept unless—

- (a) the movement is under the authority of a licence issued by a veterinary inspector; or
- (b) the results of the diagnostic test for tuberculosis have been read by, and to the satisfaction of, a veterinary inspector.

(11) If any person fails to comply with any reasonable requirement of an officer made in accordance with the provisions of paragraph (1), the Scottish Ministers may, without prejudice to any proceedings for an offence arising out of such default—

- (a) take or cause to be taken all such steps as may be necessary to facilitate the examination and valuation of the animal or the application to it of any diagnostic test for tuberculosis, including, subject to paragraph (12), the movement of the animal to other premises; and
- (b) without prejudice to article 12, prohibit the movement of bovine animals to, on or off the premises, except under the authority of a licence issued by the officer and in accordance with any conditions subject to which the licence is issued.

(12) Where a bovine animal has been moved to other premises in accordance with paragraph (11)(a), the Scottish Ministers shall ensure the return of the animal to the premises from which it was moved within a reasonable time after the examination, valuation or test has been carried out.

(13) Any expenses reasonably incurred by the Scottish Ministers for the purposes of making good any default shall be recoverable by them as a civil debt from the person in default.

### **Prohibition on vaccination and therapeutic treatment**

- 9.**—(1) No person shall vaccinate a bovine animal against tuberculosis.  
(2) No person shall treat a bovine animal for tuberculosis.

### **Notification of intended slaughter of animals**

**10.**—(1) Where the Scottish Ministers intend to cause a bovine animal to be slaughtered under section 32 of the Act in its application to tuberculosis, a veterinary inspector may serve a notice on the owner or person in charge of the animal informing that person of the intended slaughter and requiring that person to detain the animal pending such slaughter (or pending its surrender and removal for such slaughter) on such part of the premises as is specified in the notice and to isolate it as far as practicable from such other animals as are so specified.

- (2) The person on whom such a notice has been served—
- (a) shall comply with the notice; and
  - (b) shall not move the animal, or cause or permit it to be moved, off that part of the premises on which it is required to be detained, except under the authority of a licence issued by an officer.

### **Precautions against spread of infection**

**11.**—(1) Where the Scottish Ministers are satisfied that any bovine animal kept on any premises is an affected animal a veterinary inspector may, by notice in writing served on the owner or person in charge of any such animal, require that person—

- (a) to take such steps as may be reasonably practicable to prevent any bovine animal kept on the premises from infecting any bovine animal kept on any adjoining premises;
- (b) to arrange for the isolation of any animal which may be specified in the notice on any part of the premises so specified;
- (c) to ensure that any part of the premises specified in the notice shall not be used by any animal on the premises, or by such animal as may be so specified;
- (d) at the expense of the owner or person in charge of the animal, and within such time and in such manner as may be specified in the notice, to cleanse and disinfect such part or parts of the premises as may be so specified;
- (e) to treat and store manure or slurry from any place which has been used by such animal otherwise than in accordance with the requirements of the notice;

- (f) not to spread any manure or to spray or spread any slurry from any place which has been used by any such animal otherwise than in accordance with the requirements of the notice; and
- (g) to cleanse and wash all utensils and other articles used for or about an animal to which the notice relates within such time and in such manner as may be specified in the notice.

(2) Where a veterinary inspector reasonably believes that any bovine animal which is on, or which has been on any premises that are used for any show, exhibition, market, sale or fair, is an affected animal or has been exposed to the infection of tuberculosis, such officer may, by notice in writing served on the occupier of such premises, require the occupier—

- (a) to ensure that any part or parts of the premises specified in the notice shall not be used by any other bovine animal for such period as may be specified in the notice; and
- (b) at the occupier's own expense, and within such time and in such manner as may be specified in the notice—
  - (i) to cleanse and disinfect such part or parts of the premises as may be specified in the notice; and
  - (ii) to dispose of any manure, slurry or other animal waste, straw, litter or other matter that has or might have come into contact with such animal.

(3) If any person on whom a notice is served under paragraph (1)(b) or (2) fails to comply with the requirements of the notice, the Scottish Ministers may, without prejudice to any proceedings arising out of such default, carry out or cause to be carried out the requirements of the notice, and the amount of any expenses reasonably incurred by them for the purpose of making good the default shall be recoverable as a civil debt from the person in default.

#### **Prohibition on movement of bovine animals**

**12.** A veterinary inspector may by notice in writing served on the owner or person in charge of bovine animals kept on such premises as are specified in the notice, prohibit the movement of bovine animals on to or off such premises or any part of such premises, except under the authority of a licence issued by an officer.

#### **Manure, slurry etc.**

**13.** Where a notice has been served on the owner or person in charge of bovine animals kept on any premises under the provisions of article 12, no manure, slurry or other animal waste shall be removed from such premises except under the authority of a licence issued by an officer.

#### **Suspected animals in markets, shows and sales**

**14.—(1)** Where a veterinary inspector reasonably believes that a bovine animal on any premises at which a show, exhibition, market, sale or fair is being held, is infected with, or has been exposed to the infection of tuberculosis, that inspector may, by notice in writing served on the owner or person in charge of the animal, require that animal to be removed from those premises, and (as the owner or person in charge of the animal may elect) taken either—

- (a) to a slaughterhouse for immediate slaughter; or
- (b) back to the premises from which the animal was brought to the show, exhibition, market, sale or fair; or
- (c) to such other premises as may be approved by the inspector for the purpose.

(2) A bovine animal shall only be moved in accordance with the provisions of subparagraph (b) or (c) of paragraph (1) on condition that it is immediately put into isolation for a period to be terminated by a notice in writing served on the owner or person in charge of the animal by an officer.

### **Control of infection from other animals**

**15.**—(1) Where a veterinary inspector reasonably believes that an animal kept on any premises is, or may be, infected with tuberculosis, that inspector may by notice in writing served on the occupier of such premises, require such person to keep the animal under control in such manner as may be specified in the notice or to confine it to such part of the premises as may be so specified.

(2) A notice served under paragraph (1) in respect of an animal kept on any premises shall remain in force until such time as the animal dies or it is withdrawn by a further notice in writing served by a veterinary inspector on the occupier of such premises.

(3) For the purposes of paragraphs (1) and (2), “animal” means any kind of mammal except man.

### **Marking of bovine animals**

**16.**—(1) If so required in writing by an officer, the owner or person in charge of bovine animals kept on any premises shall mark such animals in the manner required by the officer.

(2) That officer may paint, stamp, clip, tag or otherwise mark bovine animals kept on any premises.

(3) No person shall alter, remove, obliterate, or deface any mark or identification applied in accordance with paragraphs (1) and (2).

### **Isolation of *M. bovis* in a laboratory**

**17.**—(1) Subject to paragraph (2), where the presence of the organism *M. bovis* is identified by a laboratory examination of a sample taken from any mammal (other than man) or from the carcass, products or surroundings of any such mammal, the person in charge of that laboratory shall immediately notify a laboratory approved by the Scottish Ministers to carry out further investigations.

(2) The duty to notify set out in paragraph (1) shall not apply where *M. bovis* is present in the sample as a result of its deliberate introduction as part of research involving the use of that organism.

### **Enforcement by local authority**

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

### **Revocations**

**19.** The Tuberculosis (Scotland) Order 1984(a), the Tuberculosis (Scotland) Amendment Order 1990(b) and paragraph 2 of Part III of Schedule 1 to the Animal Health Orders (Divisional Veterinary Manager Amendment) Order 1995(c) are hereby revoked.

*ROSS FINNIE*

A member of the Scottish Executive

Pentland House  
Edinburgh  
5th September 2005

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(a) S.I. 1984/2063, amended by S.I. 1990/1908 and 1995/2922.

(b) S.I. 1990/1908.

(c) S.I. 1995/2922.

## EXPLANATORY NOTE

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

This Order revokes and substantially re-enacts the Tuberculosis (Scotland) Order 1984 (S.I. 1984/2063).

The principal changes made by this Order are:

1. to introduce an obligation to apply a diagnostic test for tuberculosis to any animal moving from a holding in Scotland or to any animal which has arrived at a holding in Scotland from a holding in an area in Great Britain where there is a high incidence of bovine tuberculosis;
2. to prohibit the movement of a bovine animal between the application of a diagnostic test for tuberculosis and the veterinary inspector being satisfied with the test (article 8(10));
3. to clarify the power to impose movement restrictions on herds where an official tuberculin test has not been carried out by the due date (article 8(11));
4. to introduce a duty to notify the isolation of the organism *M. bovis* when found in sample taken in a laboratory (other than as a consequence of its deliberate introduction) (article 17);
5. to remove the prescribed forms of Notice (previously Form A and Form B) previously set out in the Schedules to the 1984 Order.

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

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

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