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SCOTTISH STATUTORY INSTRUMENTS

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**2006 No. 606**

**ANIMALS**

**ANIMAL HEALTH**

**The Welfare of Animals (Transport)  
(Scotland) Regulations 2006**

*Made* - - - - - *15th December 2006*  
*Laid before the Scottish*  
*Parliament* - - - - - *18th December 2006*  
*Coming into force* - - - - - *25th January 2007*

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

**PART 1**

**Introduction**

**Citation, commencement and extent**

1. These Regulations—
  - (a) may be cited as the Welfare of Animals (Transport) (Scotland) Regulations 2006;
  - (b) come into force on 25th January 2007; and
  - (c) extend to Scotland only.

**Interpretation**

2. In these Regulations—

“the Act” means the Animal Health Act 1981<sup>(2)</sup>;

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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 upon 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.

(2) 1981 c. 22, amended by the Animal Health and Welfare (Scotland) Act 2006 asp 11 and the Animal Health Act 1981 (Amendment) Regulations 1992 (S.I.1992/3293).

“Council Regulation (EC) No. 1/2005” means Council Regulation (EC) No. 1/2005 on the protection of animals during transport and related operations and amending Directives 64/432/EEC and 93/119/EC and Regulation (EC) 1255/97<sup>(3)</sup>;

“Council Regulation (EC) No. 1255/97” means Council Regulation (EC) No. 1255/97 concerning Community criteria for staging points and amending the route plan referred to in the Annex to Directive 91/628/EEC<sup>(4)</sup>;

“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994<sup>(5)</sup>.

## PART 2

### Transport of Animals

#### Transport

**3.**—(1) A person who fails to comply with the following provisions of Council Regulation (EC) No. 1/2005 is guilty of an offence under the Act—

- (a) Article 3 (general conditions for the transport of animals);
- (b) Article 4(1) (Article 4 relates to transport documentation);
- (c) Article 5(1) (Article 5 relates to planning obligations for the transport of animals);
- (d) Article 6(1) (transporters);
- (e) from 5 January 2008, Article 6(5);
- (f) Article 7 (prior inspection and approval of means of transport);
- (g) Points 1.8, 1.9 and 1.11 of Chapter III of Annex I to that Regulation.

(2) Copies of the documentation referred to in Article 4 of Council Regulation (EC) No. 1/2005 must be kept for 6 months from the date of completion of the journey.

#### Transporters

**4.** A transporter who fails to comply with the following provisions of Council Regulation (EC) No 1/2005 is guilty of an offence under the Act—

- (a) Article 4(2) (transport documentation);
- (b) Article 5(2) and (4) (planning obligations for the transport of animals);
- (c) Article 6(2), (3), (4), (6) and (8) (transporters);
- (d) Article 6(9) (transporters)—
  - (i) for means of transport by road in service for the first time as from the coming into force date of these Regulations; and
  - (ii) for all means of transport by road as from 1 January 2009;
- (e) Article 12 (limitation on applications for authorisation).

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(3) O.J. No. L 3, 1.5.2005 p.1.

(4) O.J. No. L 174, 2.7.1997 p.1.

(5) 1994 c. 39.

### **Roll-on-roll-off vessels**

5.—(1) A master of a roll-on-roll-off vessel who fails to comply with point 3.1 of Chapter II of Annex I to Council Regulation (EC) No. 1/2005 is guilty of an offence under the Act.

(2) No transporter shall transport animals on a roll-on-roll-off vessel unless the master of the vessel has first verified the matters referred to in point 3.1 of Chapter II of Annex I to Council Regulation (EC) No. 1/2005 (additional provisions for transport on roll-on-roll-off vessels).

### **Organisers**

6. An organiser who fails to comply with Article 5(3) and (4) of Council Regulation (EC) No. 1/2005 (planning obligations for the transport of animals) is guilty of an offence under the Act.

### **Keepers**

7. A keeper who fails to comply with Article 8 of Council Regulation (EC) No. 1/2005 (keepers at places of departure, transfer or destination) is guilty of an offence under the Act.

### **Assembly centres**

8. An operator of an assembly centre who fails to comply with Article 9 of Council Regulation (EC) No. 1/2005 (assembly centres) is guilty of an offence under the Act.

### **Control posts**

9.—(1) It is an offence under the Act to operate a control post unless approved for that purpose.

(2) An operator of a control post who fails to comply with the following provisions of Council Regulation (EC) No. 1255/97 is guilty of an offence under the Act—

- (a) Article 4 (use of control posts);
- (b) Article 5 (the operation of control posts); or
- (c) Article 6(1) (confirmation an animal is fit to continue its journey).

## **PART 3**

### **Derogations for road journeys under 12 hours**

#### **Application**

10. In accordance with Article 18(4) of Council Regulation (EC) No. 1/2005, the derogations in this Part apply in respect of a means of transport by road used for a journey that does not exceed 12 hours in order to reach the final place of destination (“means of transport by road”).

#### **Derogation from inspection and approval**

11. For the purposes of Article 18(1) of Council Regulation (EC) No. 1/2005, a means of transport by road used to transport animals other than domestic equidae or domestic animals of bovine, ovine, caprine or porcine species does not require a certificate of approval.

#### **Derogation from requirement for continuous access to water**

12. For the purposes of point 1.4(b) of Chapter V of Annex I to Council Regulation (EC) No. 1/2005, during a journey, pigs—

- (a) do not require continuous access to water on a means of transport by road;
- (b) must be offered water at appropriate intervals and afforded an adequate opportunity to drink.

#### **Derogation from insulated roof requirement**

**13.** For the purposes of point 1.1 of Chapter VI to Annex I to Council Regulation (EC) No. 1/2005, the roof on a means of transport by road does not require insulation.

#### **Derogation from temperature requirements**

**14.**—(1) For the purposes of point 3.1 of Chapter VI of Annex I to Council Regulation (EC) No. 1/2005, the temperature on a means of transport by road may fall below 0°C during a journey—

- (a) up to the time when the means of transport by road is first moved at the place of departure; and
- (b) during any unloading and loading occurring at intermediate points in the journey.

(2) But where the temperature falls below 0°C, pigs weighing less than 30 kgs and unaccompanied on the journey by their mother must be provided with adequate quantities of a bedding material appropriate to the species to ensure their thermal comfort.

#### **Derogation from ventilation system requirement**

**15.** The ventilation system on a means of transport by road—

- (a) does not require the capabilities described in point 3.2 of Chapter VI of Annex I to Council Regulation (EC) No. 1/2005;
- (b) must be capable of adjustment so as to ensure that the requirements for temperatures set out in that point and in regulation 14(1) are maintained during the journey.

#### **Derogation from temperature monitoring requirements**

**16.** The temperature monitoring, data recording and warning systems referred to in points 3.3 and 3.4 of Chapter VI of Annex I to Council Regulation (EC) No. 1/2005 are not required on a means of transport by road.

#### **Derogation from navigation system requirement**

**17.** The navigation system referred to in point 4.1 of Chapter VI of Annex I to Council Regulation (EC) No. 1/2005 is not required in a means of transport by road.

## **PART 4**

### **Approvals**

#### **The competent authority**

**18.**—(1) The Scottish Ministers are the competent authority for the purposes of granting and issuing—

- (a) authorisations to transporters in accordance with Articles 10, 11 and 13 of Council Regulation (EC) No. 1/2005;
- (b) certificates of competence in accordance with Article 17(2) of that Regulation;

- (c) certificates of approval of means of transport by road in accordance with Article 18(1) of that Regulation; and
  - (d) certificates of approval of livestock vessels in accordance with Article 19(1) of that Regulation.
- (2) The Scottish Ministers are also the competent authority for–
- (a) receiving notification in accordance with Article 6(2) of Council Regulation (EC) No. 1/2005;
  - (b) receiving documents in accordance with Articles 6(5), 6(8), 6(9) and point 3(b) of Annex II to that Regulation;
  - (c) checking and inspecting journey logs in accordance with Articles 14(1) and the second paragraph of point 5 of Annex II to that Regulation;
  - (d) carrying out checks in accordance with Article 15 of that Regulation;
  - (e) recording information in accordance with Articles 19(3) and 19(4) of that Regulation;
  - (f) inspecting livestock vessels in accordance with Article 20 of that Regulation;
  - (g) requiring action in the event of non-compliance by transporters in accordance with Article 23 of that Regulation;
  - (h) receiving notification from other competent authorities of non-compliance in accordance with Article 26(2) and (3) of that Regulation;
  - (i) taking action in the event of infringements in accordance with Article 26 of that Regulation;
  - (j) inspecting animals, means of transport and accompanying documentation in accordance with Article 27 of that Regulation;
  - (k) approving classification societies in accordance with point 1 of Chapter IV of Annex I to that Regulation.
- (3) The Scottish Ministers are the competent authority for the purposes of–
- (a) granting or issuing approvals in accordance with Articles 3 and 4(2) of Council Regulation (EC) No. 1255/97;
  - (b) receiving information on animals passing through a control post in accordance with Article 5(h) and (i) of that Regulation.
- (4) The Scottish Ministers are responsible for exercising the functions of a member State for the purposes of–
- (a) Council Regulation (EC) No. 1/2005;
  - (b) Council Regulation (EC) No. 1255/97;
- and for designating bodies in accordance with Articles 17(2), 18(1) and 19(1) of Council Regulation (EC) No. 1/2005.

### **Approvals, authorisations etc**

**19.** Any approval, authorisation or certificate, issued under these Regulations, Council Regulation (EC) No. 1/2005 or Council Regulation (EC) No. 1255/97–

- (a) must be in writing;
- (b) may be made subject to conditions; and
- (c) may be amended, suspended or revoked at any time.

### **Suspension, revocation of approvals etc**

**20.**—(1) The Scottish Ministers, by notice served on the holder of an approval, authorisation or certificate, may suspend or amend an approval, authorisation, a certificate of approval or a certificate of competence if they are satisfied that any conditions under which it was granted or of any provision of Council Regulation (EC) No. 1/2005, Council Regulation (EC) No. 1255/97 or these Regulations have been breached.

(2) A suspension under paragraph (1)—

- (a) has immediate effect where the Scottish Ministers consider it necessary for the protection of animal welfare;
- (b) otherwise shall not have effect for at least 21 days following service of the notice.

(3) The notice must—

- (a) give reasons;
- (b) state when it comes into effect and, in the case of a suspension, state on what date or event it is to cease to have effect; and
- (c) explain the right of the recipient of the notice to make written representations to a person appointed by the Scottish Ministers.

(4) Where the notice does not have immediate effect, and representations are made under regulation 21, an amendment or suspension will not have effect until the final determination by the Scottish Ministers in accordance with regulation 21 unless the Scottish Ministers decide that it is necessary for the protection of animal welfare for the amendment or suspension to have immediate effect and give notice to the holder of the approval, authorisation or certificate.

(5) Where a suspension is upheld, the Scottish Ministers may, by notice, revoke an approval, authorisation, certificate of approval or certificate of competence if satisfied that these Regulations, Council Regulation (EC) No. 1/2005 or Council Regulation (EC) No. 1255/97 will not be complied with.

(6) A notice must not be issued under paragraph (5) until the process in regulation 21 (if any) has been completed.

### **Representations to an appointed person**

**21.**—(1) A person may make written representations against a refusal, condition, amendment, suspension or revocation to a person appointed for the purpose by the Scottish Ministers.

(2) Representations must be made within 21 days of receiving notification of the Scottish Ministers' decision.

(3) The appointed person must consider the representations and report in writing to the Scottish Ministers.

(4) The Scottish Ministers must give written notification of their final determination and the reasons for it.

## **PART 5**

### **Miscellaneous**

#### **Powers of inspectors**

**22.**—(1) An inspector may, if the inspector considers animals are being transported, or are about to be transported, in a way which—

- (a) contravenes any provision of these Regulations; or
- (b) constitutes an offence against the Act by virtue of these Regulations

serve a notice on the person appearing to the inspector to be in charge of the animals requiring that person to take any action necessary to ensure compliance with these Regulations, giving reasons for the requirements.

(2) An inspector may in particular—

- (a) prohibit the transport of the animals, either indefinitely or for a period specified in the notice;
- (b) specify conditions under which the animals may be transported;
- (c) require the journey to be completed or the animals to be returned to their place of departure by the most direct route, provided that this course of action would not cause unnecessary suffering to the animals;
- (d) require the animals not fit to complete their journey to be unloaded, watered, fed or rested;
- (e) require the humane slaughter or killing of the animals; or
- (f) require a means of transport or container to be repaired or replaced before it is used to transport animals.

(3) Where it is necessary for identification purposes, an inspector may mark an animal.

(4) Any person who defaces, obscures or removes any mark applied under paragraph (3) shall be guilty of an offence under the Act.

(5) An inspector may inspect any document for the purpose of ascertaining whether the provisions of these Regulations, Council Regulation (EC) No. 1/2005, or Council Regulation (EC) No. 1255/97 have been complied with, and take copies of any such document inspected.

(6) An inspector may serve on the owner, or any person appearing to the inspector to be in charge of a control post, a notice requiring that person to take any action the inspector reasonably considers necessary to ensure compliance with, or remedy any infringement of, Council Regulation (EC) No. 1255/97.

(7) Without prejudice to the generality of paragraph (6), an inspector may—

- (a) require one or more animals at a control post to be removed from the control post;
- (b) specify conditions under which animals may remain there.

(8) In deciding whether to serve a notice under this regulation, an inspector may take into account any previous failure to comply with any provision of these Regulations, or of any Order made under section 8, 37, 38 or 39 of the Act or point 8 of Annex II to Council Regulation (EC) No. 1/2005 (return of documents after completion of journey).

(9) Where a person fails to comply with the requirements of a notice served under this regulation, an inspector may take any steps the inspector considers necessary to ensure the requirement is met.

(10) The person in default shall reimburse any reasonable expenses incurred by the Scottish Ministers or the local authority in taking such steps.

### **Powers of inspectors: supplementary**

**23.** The following provisions of the Act apply as if these Regulations were an Order made under that Act and as if the definition of animals and poultry in section 87 of that Act were extended to include all vertebrate animals—

- (a) section 60 (duties and authorities of constables);
- (b) section 63 (general powers of inspectors);
- (c) section 64 (powers of inspectors as to poultry);

- (d) section 64A (powers of inspectors relating to Community obligations); and
- (e) section 65(1) to (3) (power to detain vessels and aircraft).

### **Compliance with notices**

24. Any notice served under these Regulations must be complied with at the expense of the person on whom it is served, except where otherwise provided in that notice.

### **Production of plans**

- 25.—(1) The owner or charterer of any vessel to be used for the transport of animals must—
- (a) produce to an officer of the Scottish Ministers, on demand, plans of the vessel (including details of its ventilation and any fittings for livestock); and
  - (b) provide such information concerning the vessel as the officer considers necessary to enable the officer to ascertain whether the provisions of these Regulations will be complied with during the proposed journey.

(2) No person is obliged by virtue of paragraph (1) to provide any information which that person cannot, with the exercise of reasonable diligence, obtain.

### **Obstruction**

26. No person shall—
- (a) without reasonable cause, fail to give any person acting under Council Regulation (EC) No. 1/2005 or Council Regulation (EC) No. 1255/97 or these Regulations any assistance or information which that person may reasonably require for the purposes of the latter's functions under Council Regulation (EC) No. 1/2005, Council Regulation (EC) No. 1255/97 or these Regulations;
  - (b) provide false information on any journey log (whether submitted for approval, returned to the officer of the Scottish Ministers after the journey or otherwise) or provide false information on any documentation carried pursuant to Article 4 of Council Regulation (EC) No. 1/2005;
  - (c) make an entry in a record or statement, or give any information for the purposes of these Regulations, which that person knows to be false in any material particular or, for those purposes, recklessly makes a statement or gives any information which is false in any material particular; or
  - (d) cause or permit any of the above.

### **Offences by bodies corporate**

27.—(1) Where a body corporate is guilty of an offence under the Act by virtue of these Regulations and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—

- (a) any director, manager, secretary or other similar officer of the body corporate; or
- (b) any other person who was purporting to act in any such capacity,

that person (as well as the body corporate) is guilty of the offence and liable to be proceeded against and punished accordingly.

(2) For the purposes of paragraph (1), “director” in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

(3) “Body corporate” includes a partnership in Scotland and, in relation to such a partnership, a reference to an officer of a body corporate is a reference to a partner.

### **Enforcement and offences**

**28.**—(1) These Regulations are enforced by the local authority.

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

(3) The following provisions of the Act apply as if these Regulations were an Order made under the Act, and as if the definitions of animals and poultry in section 87 of the Act were extended to include all vertebrate animals—

- (a) section 66 (refusal and obstruction);
- (b) section 67 (issue of false licences etc.);
- (c) section 68 (issue of licences etc. in blank);
- (d) section 69 (falsely obtaining licences etc.);
- (e) section 70 (alteration of licences etc.);
- (f) section 71 (other offences as to licences);
- (g) section 72 (offences made and declared by and under this Act);
- (h) section 73 (general offences);
- (i) section 77 (money recoverable summarily); and
- (j) section 79(1) to (4) (evidence and procedure).

(4) No contravention of, or failure to comply with, a provision of these Regulations by the Scottish Ministers, a local authority, a veterinary inspector or an inspector shall constitute a contravention for the purposes of any section listed in paragraph (3).

(5) A person who, by virtue of these Regulations is guilty of an offence under the Act, is liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding level 5 on the standard scale or to both.

### **Revocations**

**29.** The Orders specified in the Schedule to this Order, insofar as they have effect in Scotland, are revoked.

St Andrew’s House, Edinburgh  
15th December 2006

*ROSS FINNIE*  
A member of the Scottish Executive

## SCHEDULE

Regulation 29

## Orders revoked

- (1) the Transit of Animals (Road and Rail) Order 1975(6);
- (2) the Export of Animals (Protection) Order 1981(7);
- (3) the Welfare of Animals (Transport) Order 1997(8);
- (4) the Welfare of Animals (Staging Points) Order 1998(9); and
- (5) the Welfare of Animals (Transport) (Amendment) Order 1999(10).

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**EXPLANATORY NOTE**

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

These Regulations, which apply in Scotland only, revoke the Welfare of Animals (Transport) Order 1997, which implemented Council Directive [91/628/EEC](#) on the protection of animals during transport (O.J. No. L 340, 11.12.91, p.17), and make provision for the administration and enforcement of Council Regulation [\(EC\) No. 1/2005](#) on the protection of animals during transport and related operations and amending Directives [64/432/EEC](#) and [93/119/EC](#) and Regulation [\(EC\) No. 1255/97](#) (O.J. No. L 3, 5.1.2005, p.1.). They also makes provision in Scotland for the administration and enforcement of Council Regulation 1255/97 concerning Community criteria for staging points and amending the route plan referred to in the Annex to Directive [91/628/EEC](#) (O.J. No. L 174, 2.7.97, p.1.).

Part 2 of the Regulations enforce the requirements of Council Regulation [\(EC\) No. 1/2005](#) in relation to transport (regulation 3), transporters (regulation 4), roll-on-roll-off vessels (regulation 5) organisers (regulation 6), keepers (regulation 7) and assembly centres (regulation 8). It also enforces the requirements of Council Regulation [\(EC\) No. 1255/97](#) in relation to control posts (regulation 9). Regulation 10(1) makes it an offence to operate a control post without prior approval.

Part 3 provides derogations relating to means of transport by road used in respect of journeys not exceeding 12 hours in order to reach the final destination (regulations 11 to 18).

Part 4 provides for the amendment, suspension or revocation of approvals, authorisations or certificates and for representations against a notice to amend, suspend or revoke them (regulations 19 to 22).

Inspectors are given powers to require compliance with the Regulations, including the power to stop a journey (regulations 23 and 24).

Owners or charterers of vessels used to transport animals are required to produce information on demand to an officer of the Scottish Ministers, which may include a plan of the vessel (regulation 25).

The Regulations are enforced by the Local Authority (regulation 28).

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(6) S.I. [1975/1024](#).  
 (7) S.I. [1981/1051](#).  
 (8) S.I. [1997/1480](#).  
 (9) S.I. [1998/2537](#).  
 (10) S.I. [1999/1622](#)

Breach of the Regulations is an offence under the Animal Health Act 1981, punishable in accordance with regulation 28.

A regulatory impact assessment has been prepared in respect of these Regulations and has been placed in the Scottish Parliament Information Centre. Copies can be obtained from The Scottish Executive Environment and Rural Affairs Department, Pentland House, Robb's Loan, Edinburgh, EH14 1TY.