

2008 No. 158

ANIMALS

ANIMAL HEALTH

**The Products of Animal Origin (Disease Control) (Scotland)
Order 2008**

Made - - - - *17th April 2008*

Coming into force - - *12th May 2008*

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 1, 7(1) and (2), 8(1), 11, 15(4) and (5), 23(c) to (g), 28, 35(1) and (3), 64, 83(2), 87(2) and 88(2) of the Animal Health Act 1981(a) and all other powers enabling them to do so.

PART 1

Introduction

Citation, commencement and extent

1.—(1) This Order may be cited as the Products of Animal Origin (Disease Control) (Scotland) Order 2008 and comes into force on 12th May 2008.

(2) This Order extends to Scotland only.

Interpretation: general

2. In this Order—

“the Act” means the Animal Health Act 1981;

“disease legislation” means any of the legislation listed in Schedule 1;

“establishment” means a slaughterhouse or a game handling establishment;

“game handling establishment” means an establishment where the preparation of wild game carcasses takes place;

“meat” means any part of the carcass of any animal or poultry intended for human consumption, and includes a product resulting from the processing of meat from that animal or poultry or a product resulting from the further processing of such processed meat product;

“occupier” means, in relation to any premises or establishment, the person in charge of those premises or that establishment;

(a) 1981 c.22 as amended by S.I. 1992/3293. Powers to make Orders under these sections were originally conferred on “the Ministers” as defined in section 86(1) of the 1981 Act. The functions of the Ministers were, insofar as within devolved competence, transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

“premises” means any land, building, plant or place in business use, other than a slaughterhouse or game handling establishment;

“relevant date” means the date disease was confirmed at infected premises or at an establishment or the date of earliest infection where the Scottish Ministers specify such a date;

“slaughter” means killing for the production of food for human consumption but does not include killing wild game;

“slaughterhouse” means an establishment where the slaughter and dressing of any animal or poultry takes place;

“supply” means supply to the final consumer or to a person who then supplies to the final consumer and includes consignment for sale;

“treatment centre” means premises designated under article 6 for the purpose of subjecting meat to a treatment listed in Schedule 2;

“vehicle” includes—

- (a) a trailer, semi-trailer or other thing designed or adapted to be towed by another vehicle;
- (b) a detachable part of any vehicle;
- (c) a container or other structure designed or adapted to be carried on a vehicle; and

“wild game” means a wild animal or bird which is hunted for human consumption.

Disease, poultry and animals: definitions, and extensions of meaning

3.—(1) In this Order—

“disease” means classical swine fever, African swine fever, swine vesicular disease, rinderpest, sheep and goat plague or Newcastle disease; and

“poultry” means all species of birds reared or kept in captivity for the—

- (a) production of meat or eggs for human consumption;
- (b) production of other commercial products for human consumption;
- (c) restocking of supplies of game; or
- (d) purposes of any breeding programme for the production of those categories of birds.

(2) The definition of “disease” in section 88(1) of the Act is extended to include swine vesicular disease for all of the purposes of that Act.

(3) The definition of “animals” in section 87(1) of the Act is extended for all of the purposes of that Act in its application to this Order so as to comprise any kind of mammal except man.

Restricted animal, restricted poultry and restricted meat: definitions

4.—(1) In this Order the definitions in paragraphs (2) to (9) apply.

(2) A “restricted animal” is an animal which is—

- (a) at, in or from—
 - (i) suspect premises;
 - (ii) an establishment where a disease is suspected;
 - (iii) infected premises;
 - (iv) an establishment where a disease is confirmed;
 - (v) an infected area;
 - (vi) a protection zone; or
 - (vii) a surveillance zone; and
- (b) of a species susceptible to the disease in respect of which restrictions have been imposed under disease legislation.

(3) “Restricted poultry” is poultry which is at, in or from any of the following declared or notified under the Diseases of Poultry (Scotland) Order 2003^(a)—

- (a) suspect premises;
- (b) a slaughterhouse where a disease is suspected;
- (c) infected premises;
- (d) a slaughterhouse where a disease is confirmed;
- (e) an infected area;
- (f) a protection zone; or
- (g) a surveillance zone.

(4) “Suspect premises” are premises where movement restrictions are in place under disease legislation because a disease is suspected there.

(5) “Infected premises” are premises where a disease has been confirmed under disease legislation.

(6) An “infected area” is an area of this name declared by the Scottish Ministers under disease legislation following confirmation of a disease.

(7) A “protection zone” is an area of this name declared by the Scottish Ministers under disease legislation following confirmation of a disease.

(8) A “surveillance zone” is an area of this name declared by the Scottish Ministers under disease legislation following confirmation of a disease.

(9) “Restricted meat” is meat produced on or after the relevant date from a restricted animal or restricted poultry from an infected area, a protection zone or a surveillance zone that has not been treated in accordance with Schedule 2 at a designated treatment centre, and includes meat that has come into contact with such meat.

Notices

5. Notices under this Order—

- (a) must be in writing; and
- (b) may be amended, suspended or revoked, by further notice, at any time.

Designation of premises, slaughterhouses and game handling establishments

6.—(1) The Scottish Ministers may designate any premises or establishment for the purposes of slaughtering animals or poultry, or cutting, preparing, processing, packing, wrapping, storage or treatment of meat.

(2) Designations under this Order—

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

(3) Premises and establishments designated by the Secretary of State, the Welsh Ministers or the Department for Agriculture and Rural Development of Northern Ireland for the same purposes as they may be designated under this Order are designated premises or establishments for the purposes of this Order.

(4) In this Order, “designated” refers to premises and establishments which are designated under this article.

(a) S.S.I. 2003/354.

Restrictions relating to movements from England, Wales or Northern Ireland

7.—(1) Unless the Scottish Ministers direct otherwise in writing, measures in this Order applying in respect of anything moved from any of the premises, establishments, areas or zones referred to in article 4 also apply in respect of such a movement from any equivalent premises, establishment, area or zone in England, Wales or Northern Ireland.

(2) This article only applies if the person to whom the measure applies is aware or should reasonably have been aware that the movement is from such premises, establishment, area or zone.

PART 2

Control of meat from restricted animals or restricted poultry

Meat from suspect or infected premises

8.—(1) Any person in possession of meat from a restricted animal or restricted poultry originating from suspect premises on or after the relevant date, or meat that has come into contact with such meat, must detain that meat until those premises are no longer suspect premises.

(2) Paragraph (1) only applies if the person in possession of the meat is aware or should reasonably have been aware that the meat is from a restricted animal or restricted poultry originating from suspect premises on or after the relevant date, or is meat that has come into contact with such meat.

(3) Any person in possession of meat from a restricted animal or restricted poultry originating from infected premises on or after the relevant date, or meat that has come into contact with such meat, must destroy that meat without delay.

Tracing of meat from infected premises

9. Any person who has owned or been in possession of meat referred to in article 8(3) must—

- (a) use their best endeavours to trace that meat; and
- (b) inform the recipient of that meat, other than where that recipient is a consumer, that the meat is from infected premises.

Prohibition on supply and export of meat

10.—(1) A person must not—

- (a) supply restricted meat; or
- (b) export restricted meat.

(2) The prohibition in paragraph (1)(a) does not apply to restricted meat from restricted poultry intended for supply on the domestic market provided that—

- (a) the occupier of the slaughterhouse where the meat was produced complies with articles 11, 13, 14 and 16(1);
- (b) any person who is in possession of the meat complies with articles 13(2), 14 and 16(2); and
- (c) the occupier of premises where cutting, preparing, processing, packing, wrapping, storage or treatment of the meat takes place complies with articles 14 and 16(3).

(3) The “domestic market” is the market for the sale of poultry meat in Scotland, England, Wales and Northern Ireland.

Slaughterhouses

11.—(1) The occupier of a slaughterhouse may only slaughter restricted animals or restricted poultry if the slaughterhouse is designated.

- (2) The occupier of a slaughterhouse must ensure that—
- (a) restricted animals are kept separate from other animals;
 - (b) restricted animals are slaughtered separately from other animals;
 - (c) restricted poultry are kept separate from other poultry;
 - (d) restricted poultry are slaughtered separately from other poultry.

(3) The occupier of a slaughterhouse who receives restricted animals that have not been kept separate from other animals or who has not kept restricted animals separate from other animals must, on being given notice by a veterinary inspector, deal with those other animals as restricted animals.

(4) The occupier of a slaughterhouse who receives restricted poultry that have not been kept separate from other poultry or who has not kept restricted poultry separate from other poultry must, on being given notice by a veterinary inspector, deal with that other poultry as restricted poultry.

(5) The occupier of a slaughterhouse where disease is suspected or has been confirmed must detain all meat in the slaughterhouse until a veterinary inspector notifies that occupier that the inspector is satisfied that detention of all or some of that meat is no longer necessary to reduce the risk of transmission of disease.

Game handling establishments

12.—(1) The occupier of a game handling establishment may only receive restricted meat if that establishment is designated.

(2) The occupier of a game handling establishment where disease is suspected or has been confirmed must detain all meat in the game handling establishment until a veterinary inspector notifies that occupier that the inspector is satisfied that detention of all or some of that meat is no longer necessary to reduce the risk of transmission of disease.

Receipt and possession of restricted meat

13.—(1) The occupier of any premises or establishment may only receive restricted meat if those premises or that establishment is designated.

(2) Any person in possession of restricted meat must keep it separate from other meat.

Marking of meat

14.—(1) The occupier of an establishment must ensure that restricted meat is marked in accordance with Schedule 3.

(2) A person must not be in possession or control of restricted meat unless it is marked in accordance with Schedule 3.

(3) A person must not remove a mark applied under this article except to enable cutting, preparing, processing, packing or treatment of the restricted meat.

(4) Any person who removes a mark applied under this article, other than a person treating meat at a treatment centre with a treatment listed in Schedule 2, must reapply the mark, with the appropriate plant approval number, after cutting, preparing, processing, packing or treatment of the meat.

Movement of restricted meat

15. No person may transport or arrange for the transport of restricted meat to any premises or any establishment unless those premises or that establishment is designated.

Record keeping

16.—(1) The occupier of a slaughterhouse where a restricted animal or restricted poultry is slaughtered must make records of the following—

- (a) the number and species of restricted animals or restricted poultry slaughtered;
- (b) the date of such slaughter;
- (c) the disease which caused the animals or poultry to be subject to restrictions under the disease legislation.

(2) Any person who is in possession of restricted meat must make records of the following—

- (a) the quantity of restricted meat handled;
- (b) the disease which caused the meat to be subject to restrictions under the disease legislation;
- (c) the quantity of restricted meat placed into and removed from cold storage;
- (d) the date of such movement into or out of cold storage;
- (e) the quantity of restricted meat disposed of as animal by-product.

(3) The occupier of a treatment centre where restricted meat is treated must make records of the following—

- (a) the date of the treatment;
- (b) the species of animal from which the meat came;
- (c) the quantity of meat treated; and
- (d) the treatment applied.

(4) Records made under this article must be retained for at least 3 years from the date of the slaughter, movement or treatment to which they refer.

PART 3

Inspection, offences and enforcement

Powers and duties of inspectors

17.—(1) An inspector may require a person in possession of any meat to detain that meat at a place specified by the inspector.

(2) An inspector may require a person in possession of meat to dispose of that meat.

(3) An inspector may require a person in possession of meat to treat that meat.

(4) An inspector may carry out such inquiries, examinations and tests and take such samples as that inspector considers necessary.

(5) An inspector may mark any animal, meat or other thing for identification purposes.

(6) An inspector may, by notice to the occupier of any premises or establishment, require the marking of any meat.

(7) An inspector may, by notice to the occupier of any premises or establishment, require the tracing of any meat that the occupier has handled.

(8) An inspector may, by notice to the occupier of any premises or establishment, require the cleansing and disinfection of any part of those premises or that establishment.

(9) An inspector may, by notice to the person in charge of any thing, require the cleansing and disinfection of that thing.

(10) An inspector may, by notice to the occupier of any premises or establishment or the person in charge of any animal, or thing, require—

- (a) the isolation of the animal, or thing, in a specified place;

(b) the separation of any animal, or thing, from any other animal, or thing.

(11) An inspector may inspect and copy any records (in whatever form they are held) kept under this Order and remove such records so they may be copied.

(12) An inspector may inspect and check the operation of any computer and associated apparatus or material used in connection with the making and keeping of records under this Order.

(13) An inspector may require computer records to be produced in a form which may be taken away.

(14) An inspector who enters any premises, establishment or vehicle may be accompanied by—

(a) such other persons as that inspector considers necessary; and

(b) any representative of the European Commission.

(15) An inspector who enters any unoccupied premises or unoccupied establishment must leave them as effectively secured against unauthorised entry as the inspector found them.

Provision of reasonable assistance, information and cooperation

18. Any person required to give reasonable assistance or information to a person executing this Order must, unless the person has reasonable cause, do so without delay.

Costs of compliance

19. The costs incurred by any person in taking any action required under this Order, or of refraining from taking action prohibited under it, must be met by that person unless the Scottish Ministers direct otherwise in writing.

Powers of inspectors in case of default

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

Offences by bodies corporate

21.—(1) If an offence committed by a body corporate is shown—

(a) to have been committed with the consent or connivance of an officer of the body corporate; or

(b) to be attributable to any neglect on the officer's part,

the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.

(2) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of members in connection with their functions of management as if they were directors of the body.

(3) "Officer", in relation to a body corporate, means a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity.

(4) "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.

Disapplication of provisions to any person executing or enforcing this Order

22. Any prohibition or restriction on the movement or use of any thing under this Order does not apply to the following in their execution or enforcement of this Order—

(a) the Scottish Ministers;

- (b) an inspector of the local authority;
- (c) any other person authorised by the Scottish Ministers or by the local authority to carry out such execution or enforcement.

Enforcement

23. This Order is to be enforced by–

- (a) the Scottish Ministers in any establishment or cutting plant; or
- (b) the local authority, unless the Scottish Ministers direct otherwise.

St Andrew's House,
Edinburgh
17th April 2008

RICHARD LOCHHEAD
A member of the Scottish Executive

SCHEDULE 1

Article 2

Disease legislation

1. The African Swine Fever (Scotland) Order 2003**(a)**.
2. The Cattle Plague Order 1928**(b)**.
3. The Classical Swine Fever (Scotland) Order 2003**(c)**.
4. The Movement of Animals (Restrictions) (Scotland) Order 2003**(d)**.
5. The Swine Vesicular Disease Order 1972**(e)**.
6. The Diseases of Poultry (Scotland) Order 2003**(f)**.

(a) S.S.I. 2003/586.
(b) SR&O 1928/206.
(c) S.S.I. 2003/426.
(d) S.S.I. 2003/353.
(e) S.I. 1972/1980.
(f) S.S.I. 2003/354.

SCHEDULE 2

Article 2

Approved meat treatments

<i>Meat treatment</i>	<i>Diseases against which the treatment is effective</i>
(a) Heat treatment in a hermetically sealed container with an F value of 3 or more (where F is the killing effect on bacterial spores: an F value of 3 means that the coldest point in the product has been heated sufficiently to achieve the same killing effect as 121°C in 3 minutes with instantaneous heating and chilling)	All diseases
(b) Heat treatment at a minimum temperature of 70°C which must be reached throughout the meat	All diseases except African swine fever
(c) Heat treatment at a minimum temperature of 80°C which must be reached throughout the meat	All diseases
(d) Heat treatment in a hermetically sealed container to at least 60°C for a minimum of 4 hours during which time the core temperature must be at least 70°C for 30 minutes	All diseases except Newcastle disease
(e) Natural fermentation and maturation of not less than 9 months for boneless meat resulting in the following characteristics: a Water Activity (<i>A_w</i>) value of not more than 0.93 or a pH value of not more than 6	All diseases except sheep and goat plague and Newcastle disease
(f) Natural fermentation as in (e) but with the bone still in the meat	Classical swine fever and swine vesicular disease
(g) Treatment of hams and loins involving natural fermentation and maturation for at least 190 days for hams and 140 days for loins	African swine fever
(h) Heat treatment ensuring a core temperature of at least 65°C is reached for the time necessary to achieve a pasteurisation value (pv) equal to or more than 40	Sheep and goat plague

Special identification mark

1. Restricted meat from animals must be marked with an identification mark which is–
 - (a) a diagonal cross, superimposed on the health mark or identification mark applied under Article 5 of Regulation (EC) No. 853/2004 of the European Parliament and of the Council laying down specific hygiene rules for food of animal origin^(a) or Article 4 of Commission Regulation (EC) No. 2076/2005 laying down transitional arrangements for the implementation of Regulations (EC) No. 853/2004, (EC) No. 854/2004 and (EC) No. 882/2004 of the European Parliament and of the Council and amending Regulations (EC) No. 853/2004 and (EC) No. 854/2004^(b), consisting of two straight lines intersecting at the centre of the stamp and enabling the information on the existing mark to remain legible; or
 - (b) a single oval stamp, 6.5 cm wide and 4.5 cm high, upon which the following information is legible–
 - (i) on the upper part, the letters UK;
 - (ii) in the centre, the approval number of the establishment;
 - (iii) on the lower part, the letters EC;
 - (iv) two straight lines crossing at the centre of the stamp in such a way that the information is not obscured; and
 - (v) information which identifies the veterinarian who inspected the meat.
2. If the single oval stamp referred to in paragraph (1)(b) is used–
 - (a) the letters must be at least 0.8 cm high;
 - (b) the figures must be at least 1 cm high; and
 - (c) the application of the mark must be supervised by the official veterinarian.
3. Restricted meat from poultry must be marked with an identification mark which is–
 - (a) the national mark provided for in article 4 of Commission Regulation 2076/2005 laying down transitional arrangements for the implementation of Regulation (EC) No. 853/2004, (EC) No. 854/2004 and (EC) No. 882/2004 of the European Parliament and of the Council and amending Regulations (EC) No. 853/2004 and (EC) No. 854/2004; or
 - (b) the mark described in the Annex to Commission Decision 2007/118/EC laying down detailed rules in relation to an alternative identification mark pursuant to Council Directive 2002/99/EC^(c).
4. The identification mark may be applied according to the methods in paragraphs 9, 10, 11 and 13 of section 1(C) of Annex II to Regulation EC No. 853/2004 laying down specific hygiene rules for food of animal origin.

^(a) O.J. No. L 226, 25.6.2004, p.22.

^(b) O.J. No. L 338, 22.12.2005, p.83.

^(c) O.J. No. L 51, 20.02.2007, p.19.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order transposes in Scotland Articles 3 and 4 of Council Directive 2002/99/EC laying down the animal health rules governing the production, processing, distribution and introduction of products of animal origin for human consumption (O.J. No. L 18, 23.1.2003, p.11) (“the Council Directive”).

These Articles are also transposed by the Diseases of Poultry (Scotland) Order 2003, the Foot-and-Mouth Disease (Scotland) Order 2006 (S.S.I. 2006/44) and the Avian Influenza and Influenza of Avian Origin in Mammals (Scotland) Order 2006 (S.S.I. 2006/336).

Other Articles of the Council Directive and other EC measures supplementing them are transposed by—

- (a) the Official Feed and Food Controls (Scotland) Regulations 2007 (S.S.I. 2007/522);
- (b) the Official Controls (Animals, Feed and Food) (Scotland) Regulations 2007 (S.S.I. 2007/91);
- (c) the Animals and Animal Products (Import and Export) (Scotland) Regulations 2007 (S.S.I. 2007/194);
- (d) the Products of Animal Origin (Import and Export) Regulations 1996 (S.I. 1996/3124);
- (e) the Products of Animal Origin (Third Country Imports) (Scotland) Regulations 2007 (S.S.I. 2007/1); and
- (f) the Food Hygiene (Scotland) Regulations 2006 (S.S.I. 2006/3).

This Order also transposes, insofar as it applies to Newcastle disease, Commission Decision 2007/118/EC establishing an alternative health mark pursuant to Directive 2002/99/EC (O.J. No. L 51, 20.2.2007, p.19).

This Order creates obligations in respect of animals or poultry from premises where classical swine fever, African swine fever, swine vesicular disease, rinderpest, sheep and goat plague or Newcastle disease is suspected or confirmed, and the infected area and/or protection zone and surveillance zone put in place on confirmation of one of these diseases. They also create obligations and prohibitions in respect of the meat from these animals and this poultry.

Article 8 requires the detention of meat from suspect premises and the destruction of meat from infected premises. Article 9 requires tracing of meat from infected premises. Article 10 prohibits the supply or export of “restricted meat”, being untreated meat from susceptible animals from restricted areas, unless the meat is from poultry from a Newcastle disease restricted area. In that case, the meat can be traded on the domestic market provided certain requirements are satisfied.

Article 11 requires slaughterhouses dealing with restricted animals or poultry and meat from those animals or that poultry to be designated and requires separation of those animals or that poultry. Detention of meat is required if disease is suspected or confirmed at the slaughterhouse. Article 12 requires game handling establishments dealing with restricted meat to be designated.

Article 13 requires premises and establishments to be designated before receipt of restricted meat and requires restricted meat at those places to be kept separate from other meat.

Article 14 relates to the marking of meat subject to restrictions. The health mark referred to in paragraph 1(a) of Schedule 3 is an oval mark when applied under EC Regulation 854/2004 laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption (O.J. No. L 155, 30.4.2004, p.206) and a square mark (poultry) or pentagonal mark (wild game) when applied under Commission Regulation (EC) No. 2076/2005 laying down transitional arrangements for the implementation of Regulation (EC) No. 853/2004, (EC) No. 854/2004 and (EC) No. 882/2004 of the European Parliament and of the Council and amending Regulations (EC) No. 853/2004 and (EC) No. 854/2004. The application of the health

mark is supervised by the official veterinarian. The identification marks referred to in paragraph 3 of Schedule 3 are the national mark, which is square for poultry and pentagonal for wild game, and the alternative identification mark (known as “the beer mat”), which is the shape of a rounded square and depicted in the Annex to Commission Decision 2007/118/EC.

Article 15 applies to the movement of restricted meat and article 16 to record keeping in respect of such meat.

Articles 17 to 23 relate to enforcement.

Schedule 1 sets out the legislation under which zones and areas are declared in respect of the diseases to which this Order relates. Schedule 2 sets out the treatments which must be applied to restricted meat. Schedule 3 sets out the meat marking requirements for restricted meat.

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

A full regulatory impact assessment of the effect that this Order will have on the costs of business has been prepared. Copies can be obtained from the Scottish Government Rural Directorate, Pentland House, 47 Robb’s Loan, Edinburgh, EH14 1TY. Copies have been placed in the Scottish Parliament Information Centre.

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