

2008 No. 327

ANIMALS

ANIMAL HEALTH

The Bluetongue (Scotland) Amendment (No. 2) Order 2008

Made - - - - - *2nd October 2008*
Coming into force - - - - - *4th October 2008*

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 1, 8(1), 17(1), 23, 28 and 87(2) of the Animal Health Act 1981(a), and all other powers enabling them to do so.

Citation and commencement

1. This Order may be cited as the Bluetongue (Scotland) Amendment (No. 2) Order 2008 and comes into force on 4th October 2008.

Amendment of the Bluetongue (Scotland) Order 2008

- 2.—(1) The Bluetongue (Scotland) Order 2008(b) is amended as follows.
- (2) In article 2 (interpretation)—
- (a) at paragraph (1), omit the definition of “Restricted zone”;
 - (b) at paragraph (3)(c), after “conditions”, insert “, requirements or other measures”; and
 - (c) at paragraph (4), after “condition”, insert “, requirement or measure”.
- (3) In article 3(2)(b) and (3)(b) (licences), for “or other officer of the Scottish Ministers”, substitute “, an inspector or an officer of the Scottish Ministers”.
- (4) In article 11 (temporary control zones), for paragraphs (1) and (2), substitute—
- “(1) The Scottish Ministers may, on suspicion of bluetongue virus on premises, declare a temporary control zone.
- (1A) If there is suspicion of bluetongue on premises outside Scotland, the Scottish Ministers may declare a temporary control zone in Scotland.”.
- (5) In article 13 (control zones), for paragraphs (1) and (2), substitute—
- “(1) The Scottish Ministers must, on confirmation of bluetongue on premises in Scotland, declare a control zone.

(a) 1981 c.22. Powers to make Orders under these sections were originally conferred on “the Ministers”, as defined in section 86(1) of the Act. The powers in the Act which are cited relative to this Order do not include section 88(2) of that Act. That subsection was used to enable the extension, by article 5 of S.S.I. 2008/11, of the definition of “disease” in section 88(1) of that Act to include bluetongue for the purposes of that 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).

(b) S.S.I. 2008/11, as amended by S.S.I. 2008/234.

(2) The Scottish Ministers may, if bluetongue is confirmed outside Scotland by a competent authority other than the Scottish Ministers, declare a control zone in Scotland.

(2A) The control zone must include any infected premises in Scotland, and be of such size as the Scottish Ministers consider necessary to reduce the spread of bluetongue.”.

(6) For article 14 (protection and surveillance zones), substitute—

“Restricted, protection and surveillance zones

14.—(1) The Scottish Ministers, on confirmation of bluetongue—

- (a) must declare an appropriate area to be a restricted zone;
- (b) may, within a restricted zone, declare any area around an infected premises to be a protection zone, and any area beyond such protection zone to be a surveillance zone;

(2) The Scottish Ministers may, if bluetongue is confirmed outside Scotland, declare a restricted zone in Scotland, and may within that zone declare any area to be a protection zone or a surveillance zone.

(3) A surveillance zone must not include any area in which vaccination against bluetongue has been carried out in the twelve month period before confirmation of bluetongue.

(4) No person shall move an animal out of a protection zone except as authorised by a licence granted by the Scottish Ministers.

(5) No person shall move an animal, embryo, ovum or semen out of a restricted zone except as authorised by a licence granted by the Scottish Ministers.

(6) No person shall move an animal out of or within a restricted zone if it is showing clinical signs of bluetongue on the day of movement.

(7) The Scottish Ministers must grant a licence under paragraphs (4) and (5) if the movement is permitted under the Commission Regulation, and the conditions of such a licence must be such as to ensure that the movement is made in accordance with the Commission Regulation.”.

(7) Omit article 15 (protection zone or surveillance zone where bluetongue confirmed outside Scotland).

(8) For article 16 (premises straddling zones), substitute—

“Premises straddling zones

16.—(1) Premises partly inside a temporary control zone and partly inside a free area are treated as being wholly inside the temporary control zone.

(2) Premises partly inside a control zone are treated as being wholly inside that zone.

(3) Premises partly inside a vaccination zone declared under article 22C are treated as being wholly inside that zone.

(4) Otherwise—

- (a) if a restricted zone has been divided into a protection zone and a surveillance zone premises partly inside the protection zone and partly inside the surveillance zone are treated as being wholly inside the protection zone;
- (b) premises partly inside a restricted zone and partly inside a free area are treated as being wholly inside the restricted zone; and
- (c) premises partly inside a restricted zone and partly inside a temporary control zone are treated as being wholly inside the restricted zone.”.

(9) For article 16A (powers of veterinary inspectors, officers and inspectors), substitute—

“Powers of veterinary inspectors, officers and inspectors

16A.—(1) A veterinary inspector, or an officer of the Scottish Ministers acting under the direction of a veterinary inspector may, at all reasonable hours, enter any premises, vehicle or vessel for the purpose of monitoring or surveillance for the bluetongue virus, antibodies to the bluetongue virus or midges.

(2) A veterinary inspector or an inspector or an officer of the Scottish Ministers may, at all reasonable hours, enter any premises, vehicle or vessel for the purpose of ensuring that this Order, or the Commission Regulation, is being complied with.

(3) A person entering premises, a vehicle or a vessel under paragraphs (1) or (2) must produce, if required, a duly authenticated document showing their authority to enter.

(4) A person entering premises, a vehicle or a vessel under paragraphs (1) or (2) may—

- (a) take with them any equipment; and
- (b) be accompanied by—
 - (i) such other person as they consider necessary; and
 - (ii) a representative of the European Commission acting for the purpose of the enforcement of a Community obligation.

(5) A person entering premises under paragraph (1) or (2) may take a vehicle with them.

(6) An inspector or an officer of the Scottish Ministers may—

- (a) detain, isolate or restrain any animal;
- (b) require the detention, isolation or restraint of any animal;
- (c) detain, examine or isolate any thing;
- (d) require the detention or isolation of any thing;
- (e) mark for identification purposes any animal, carcass or thing;
- (f) require any person who knows about the movement of an animal to give details of that movement, and the details of any other animal with which it has been in contact;
- (g) require any occupier of premises or keeper of animals on premises to give details of animals either on those premises or on other premises where the occupier or keeper has animals;
- (h) require the production of any record kept, in whatever form that record is held;
- (i) copy any record referred to in sub-paragraph (h);
- (j) inspect and check the operation of any computer and associated apparatus or material used in connection with the making and keeping of records.

(7) A veterinary inspector may—

- (a) require the cleansing and disinfection of any part of any premises, or of any person, animal, vehicle, vessel or thing on premises;
- (b) require the testing of any animal;
- (c) require the treatment of any animal;
- (d) require any occupier of premises or the keeper of animals on premises to—
 - (i) vaccinate, or allow the vaccination of, an animal within a protection zone;
 - (ii) retain an animal for use as a sentinel animal, or allow the introduction of a sentinel animal onto premises;
 - (iii) move an animal which has been moved other than in accordance with articles 11, 13, 14, 19 or 19A to a place specified by the veterinary inspector;
- (e) set traps for, and trap, midges;

- (f) require, or implement, midge control measures;
 - (g) require the destruction, burial, disposal or treatment of any thing.
- (8) A veterinary inspector, only, may—
- (a) examine any animal or carcase,
 - (b) vaccinate any animal within a protection zone;
 - (c) carry out an epidemiological investigation relevant to the control of bluetongue;
 - (d) carry out tests, and take samples (including blood samples) from any animal, carcase or thing, for the purpose of diagnosis or epidemiological investigation.

(9) In this article—

“sentinel animal” means an animal that is used for the purpose of surveillance for the bluetongue virus which, when first introduced or retained at any premises for that purpose, does not have antibodies to the bluetongue virus of the strain in respect of which surveillance is being carried out.”

(10) For article 19 (subsequent movement of animals), substitute—

“Movement of animals from a restricted zone

19.—(1) This article applies where an animal has been within a restricted zone at any time within the 60 day period before it is moved to premises in a free area.

(2) The occupier of premises in a free area to which an animal to which this article applies has been moved must notify the movement to the Scottish Ministers within 3 working days from the arrival of the animal.

(3) An inspector may, by notice served on the occupier of any premises referred to in paragraph (2), or on the keeper of an animal at such premises, prohibit the movement of any animal from the premises except under the authority of a licence issued by an inspector.

(4) In this article and in article 19A, “restricted zone” means a zone anywhere in the Community consisting either or both of protection and surveillance zones.

Movement of vaccinated animals

19A.—(1) This article applies to an animal that has been within a restricted zone at any time within the 60 day period before the animal is moved from a place in the United Kingdom to a—

- (a) free area; or
- (b) surveillance zone declared under article 14.

(2) The occupier of the premises where such an animal is received, and the keeper of such an animal, must ensure that the animal is accompanied by a veterinary certificate.

(3) In this article—

“animal” means an animal that is moved from a protection or restricted zone on the ground that it is exempt from the exit ban established pursuant to Article 9(1)(c) and point 1 of Article 10 of Council Directive 2000/75/EC laying down specific provisions for the control and eradication of bluetongue^(a) by reason that the animal complies with the condition set out in point 5 of Part A of Annex III to the Commission Regulation;

“veterinary certificate” means a—

- (a) certificate by a veterinary surgeon confirming that an animal identified in the certificate has been vaccinated by the veterinary surgeon, and that any supplementary vaccinations or boosters required at the date of the certificate to maintain immunity against bluetongue have been administered, or a copy; or

(a) O.J. No. L 327, 22.12.2000, p.74. Amended by Commission Decision 2006/911/EC (O.J. No. L 346, 9.12.2006, p.41), Council Directive 2006/104/EC (O.J. No. L 363, 20.12.2006, p.352) and Commission Decision 2007/729/EC (O.J. No. L 294, 13.11.2007, p.26).

(b) health certificate as referred to in point 5 of Part A of Annex III to the Commission Regulation, with the additional wording required to be added by that paragraph, or a copy;

“veterinary surgeon” means a person registered in the register of veterinary surgeons, or the supplementary register, kept under the Veterinary Surgeons Act 1966 (c.36).”.

(11) Omit article 22A (obtaining vaccine).

St Andrew’s House,
Edinburgh
2nd October 2008

RICHARD LOCHHEAD
A member of the Scottish Executive

EXPLANATORY NOTE

(This note is not part of the Order)

This Order further amends the Bluetongue (Scotland) Order 2008 ('the principal Order').

The principal Order transposes Council Directive 2000/75/EC ('the Bluetongue Directive') of 20th November 2000 laying down specific provisions for the control and eradication of bluetongue (O.J. No. L 327, 22.12.2000, p.74), and implements Commission Regulation (EC) No. 1266/2007 of 26th October 2007 on implementing rules for Council Directive 2000/75/EC as regards the control, monitoring, surveillance and restrictions on movements of certain animals of susceptible species in relation to bluetongue (O.J. No. L 283, 27.10.2007, p.37).

The principal Order was previously amended by the Bluetongue (Scotland) Amendment Order 2008, the main focus of which was to make specific provision for vaccination of animals against bluetongue.

This Order makes adjustments to the treatment of the various zones referred to in the principal Order, and makes adjustments to existing provision in relation to powers of veterinary inspectors, officers and inspectors. It also revises provisions relating to animal movements, including movement of vaccinated animals.

Article 2(2) makes minor changes to provisions in the interpretation article of the principal Order.

Article 2(3) has the effect that an inspector appointed by either the Scottish Ministers or a local authority has the power to require production of a licence authorising an animal movement in a disease control zone, and the consignment note relating to such a movement.

Article 2(4) has the effect that the Scottish Ministers have a power to declare a temporary control zone in Scotland on suspicion of bluetongue on premises outside Scotland, whether or not such a zone has been declared in an adjoining territory.

Article 2(5) has the effect that the Scottish Ministers may when they declare a control zone make it of such size as they consider necessary to reduce the spread of bluetongue, rather than a zone with a fixed radius of 20 kilometres as originally required by the principal Order. It also has the effect that the Scottish Ministers have power to declare a control zone in Scotland on confirmation of bluetongue on premises outside Scotland, whether or not such a zone has been declared in an adjoining territory.

Article 2(6) replaces article 14 of the principal Order which made provision in relation to the declaration of protection and surveillance zones, and setting out the actions which could be taken within such zones.

It has the effect that the Scottish Ministers are required to declare a restricted zone on confirmation of bluetongue in Scotland, of such size as they consider appropriate, and which may include separate protection and surveillance zones, rather than having to declare concentric protection and surveillance zones with a minimum radius of 100 and 150 kilometres respectively as originally required by the principal Order.

It also has the effect that the Scottish Ministers have power to declare a restricted zone in Scotland on confirmation of bluetongue outside Scotland, whether or not such a zone has been declared in an adjoining territory.

Article 2(7) omits article 15 of the principal Order, which made provision for the declaration of protection and surveillance zones where bluetongue is confirmed outside Scotland. This Order makes provision for the effect of disease outside Scotland through amendment of articles 11, 13 and 14 of the principal Order.

Article 2(8), in order to take account of adjustments made by this instrument in relation to the treatment of zones, replaces article 16 of the principal Order, covering premises straddling zones, with a new article.

Article 2(9) replaces the provisions in article 16A of the principal Order relating to the powers of veterinary inspectors, officers and inspectors introduced by the previous amending Order. The replaced provision involves some restructuring of the layout of article 16A, and redefines the powers that may be exercised by veterinary inspectors, officers and inspectors, respectively.

Article 2(10) replaces existing provision relating to animal movements from a restricted zone, previously contained within article 19 of the principal Order, with separate articles, the first dealing with movements of animals from a restricted zone (article 19), and the second dealing specifically with the movement of vaccinated animals (article 19A).

Article 19, as inserted by this Order, provides that where an animal that has been within a restricted zone in a member State at any time within the 60 day period before being moved to premises in a free area, the 'receiving' occupier is required to notify the movement to the Scottish Ministers within 3 days of the animal arriving at the premises. An inspector can prohibit movement of any animal from the premises concerned other than under a licence.

Article 19A as inserted by this Order provides that animals exempt from the exit ban from restricted zones provided by the Bluetongue Directive by virtue of point 5 of Part A of Annex III to the Commission Regulation (vaccinated animals), that have been within a restricted zone in a member State at any time within the 60 day period before being moved to premises in a free area or surveillance zone, must be accompanied by a veterinary certificate.

It also has the effect that the definition of a veterinary certificate as originally provided for by the principal Order is extended to include a health certificate as required by the Commission Regulation in respect of animals intended for intra-Community trade, that is a health certificate as—

- (i) laid down in Council Directive 64/432/EEC on animal health problems affecting intra-Community trade in bovine animals and swine (O.J. No. L 121, 27.9.1964, p.1977/1964. Directive as last amended by Directive 2006/104/EC);
- (ii) laid down in Council Directive 91/68/EEC on animal health conditions governing intra-Community trade in ovine and caprine animals (O.J. No. L 146, 19.2.1991, p.9. Directive as last amended by Directive 2006/104/EC);
- (iii) laid down in Council Directive 92/65/EEC laying down animal health requirements governing trade in and imports into the Community of animals, semen, ova or embryos not subject to animal health requirements laid down in specific Community rules referred to in Annex A(1) to Directive 90/425/EEC (O.J. No. L 268, 14.9.1992, p.54. Directive as last amended by Commission Decision 2007/265/EC); or
- (iv) referred to in Commission Decision 93/444/EEC on detailed rules governing intra-Community trade in certain live animals and products intended for exportation to third countries (O.J. No. L 208, 19.8.1993, p.34),

with the additional wording required under point 5 of Part A of Annex III to the Commission Regulation.

Article 2(11) provides for removal of article 22A of the principal Order, which stated that no person could obtain vaccine unless authorised to do so.

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