
SCOTTISH STATUTORY INSTRUMENTS

2009 No. 45

The Specified Animal Pathogens (Scotland) Order 2009

Citation, commencement and extent

1.—(1) This Order may be cited as the Specified Animal Pathogens (Scotland) Order 2009 and comes into force on 1st March 2009.

(2) This Order extends to Scotland only.

Extension of the definition of “animal”, “poultry” and “disease”

2. For the purposes of the Animal Health Act 1981 in relation to this Order—

- (a) the definition of “animal” is extended so as to comprise any kind of mammal except man, and any kind of four-footed beast which is not a mammal;
- (b) the definition of “poultry” is extended so as to comprise any species of bird; and
- (c) the definition of “disease” is extended so as to comprise any disease of animals and poultry which may be caused by one or more specified animal pathogens.

Interpretation

3.—(1) In this Order—

“animal” includes poultry;

“carrier” means any living creature except man which may carry or transmit a specified animal pathogen or the tissue, cell culture, body fluid, excreta, carcase or part of a carcase of such creature by or by means of which a specified animal pathogen may be transmitted or carried;

“premises” includes any land, building or other place; and

“specified animal pathogen” means an animal pathogen listed in Schedule 1, including—

- (a) intact pathogens;
- (b) pathogens which have been attenuated or genetically modified by any means; and
- (c) any nucleic acid derived from a specified animal pathogen that could produce that pathogen when introduced into a biological system in which the nucleic acid is capable of replicating.

(2) In this Order “inspector” does not include an inspector appointed by a local authority.

(3) A licence or notice issued under this Order must be in writing, may be subject to conditions, and may be amended, suspended or revoked by notice in writing at any time.

Prohibitions and notifications in relation to specified animal pathogens

4.—(1) No person may have in their possession—

- (a) any animal pathogen specified in Part 1 of Schedule 1;
- (b) any carrier in which they know such a pathogen is present,

except under the authority of a licence issued by the Scottish Ministers.

(2) No person may deliberately introduce into any animal a specified animal pathogen, except under the authority of a licence issued by the Scottish Ministers.

(3) A person must immediately notify the Scottish Ministers if that person—

- (a) has possession of any thing in respect of which they have reasonable grounds for suspecting that an animal pathogen specified in Part 1 of Schedule 1 is present; and
- (b) is not acting under the authority of a licence in respect of that pathogen.

Exceptions

5.—(1) Article 4 does not apply to any person who is transporting a specified animal pathogen or carrier and who does not own or have any rights in that specified animal pathogen or carrier.

(2) It does not apply in relation to any specified animal pathogen or carrier contained in a product—

- (a) authorised to be placed on the market in the United Kingdom as a veterinary medicinal product, or authorised to be administered to an animal in the United Kingdom;
- (b) authorised to be placed on the market under the Medicines for Human Use (Marketing Authorisations Etc.) Regulations 1994⁽¹⁾;
- (c) licensed in accordance with the provisions of section 7(2) (general provisions as to dealing with medicinal products) of the Medicines Act 1968⁽²⁾.

Powers of inspectors

6. In addition to the powers listed in the Animal Health Act 1981, an inspector enforcing this Order has the powers listed in Schedule 2.

Improvement notice

7.—(1) If an inspector is of the opinion that a person—

- (a) is carrying on any activity contravening one or more of the conditions of a licence issued to that person under this Order; or
- (b) has contravened one or more of those conditions in circumstances that make it likely that the contravention will continue or be repeated,

that inspector may serve on that person a notice (“an improvement notice”).

(2) An improvement notice must—

- (a) specify the conditions of the licence that have been contravened in the opinion of the inspector;
- (b) explain the reasons why the inspector is of that opinion; and
- (c) require the person on whom the notice is served to remedy the contravention or the matters occasioning it, within such period as may be specified in the notice.

(3) A notice must include directions as to the measures to be taken to remedy any contravention or matter to which the notice relates and any such directions may be framed so as to afford the person on whom the notice is served a choice between different ways of remedying the contravention or matter.

Prohibition notices

8.—(1) This article applies to any activities for which a licence is required under this Order.

(1) S.I.1994/3144; relevantly amended by S.I. 2000/292, 2001/795, 2002/236, 2005/2759 and 2006/1952.

(2) 1968 c. 67; amended by S.I. 1992/604, 1994/101 and 276, 2004/1031, 2005/2745 and 2006/2407.

(2) If an inspector is of the opinion that the activities involve or may involve a risk of serious harm to animals, the inspector may serve on any person carrying on such activities a notice (“a prohibition notice”).

(3) A prohibition notice must—

- (a) state that the inspector is of that opinion;
- (b) specify the matters which in that inspector’s opinion give or may give rise to a risk of serious harm to animals;
- (c) specify remedial measures; and
- (d) direct that the activities to which the notice relates must not be carried on unless the matters specified in the notice have been remedied.

(4) A direction contained in a prohibition notice under sub paragraph (3)(d) takes effect—

- (a) at the end of the period specified in the notice; or
- (b) if the notice so declares, immediately.

Appeals against improvement and prohibition notices

9.—(1) A person (“the appellant”) on whom an improvement or prohibition notice is served may within 21 days appeal against the notice to a person appointed for the purpose by the Scottish Ministers.

(2) The appointed person must consider the appeal and any representations made by the Scottish Ministers and report in writing, with a recommended course of action, to the Scottish Ministers.

(3) The Scottish Ministers may then either cancel the notice or confirm it, with or without modifications, and must notify the appellant, together with the reasons for the cancellation or confirmation with modifications.

Licences

10. No person may contravene a licence condition imposed upon him or her.

Enforcement

11. This Order is enforced by the Scottish Ministers.

Revocations

12. The following Orders are revoked—

- (a) the Specified Animal Pathogens Order 1998(3) in its application to Scotland; and
- (b) the Specified Animal Pathogens Amendment (Scotland) Order 2007(4).

St Andrew’s House,
Edinburgh
10th February 2009

RICHARD LOCHHEAD
A member of the Scottish Executive

(3) S.I. 1998/463; amended by S.S.I. 2007/30.

(4) S.S.I. 2007/30.