
SCOTTISH STATUTORY INSTRUMENTS

2012 No. 199

The Bluetongue (Scotland) Order 2012

PART 6

Enforcement and offences

Powers of inspection etc.

- 26.**—(1) An inspector or officer of the Scottish Ministers may, for a relevant purpose—
- (a) detain, isolate or restrain (or require the detention, isolation or restraint of) any animal;
 - (b) detain, examine or isolate (or require the detention, examination or isolation of) any thing;
 - (c) mark for identification purposes any animal, carcase or thing;
 - (d) require any person who knows about the movement of an animal to give details of that movement, and the details of any animal with which it has been in contact;
 - (e) 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;
 - (f) require the production of any record kept, in whatever form that record is held;
 - (g) copy any such record; or
 - (h) inspect and check the operation of any computer and associated apparatus or material used in connection with the making and keeping of records.
- (2) A veterinary inspector may, for a relevant purpose—
- (a) require the cleaning and disinfection of any part of 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; or
 - (d) require any occupier of premises or the keeper of animals on premises to—
 - (i) vaccinate (or allow the vaccination of) an animal;
 - (ii) retain an animal for use as a sentinel animal, or allow the introduction of a sentinel animal on to premises;
 - (iii) move an animal which has been moved other than in accordance with article 13, 16, 19 or 20, or in contravention of article 15, to a place specified by the veterinary inspector;
 - (iv) set traps for, and trap, midges;
 - (v) require or implement midge control measures; or
 - (vi) require the destruction, burial, disposal or treatment of any thing.
- (3) A veterinary inspector, only, may, for a relevant purpose—
- (a) examine any animal or carcase;

- (b) carry out an epidemiological investigation relevant to the control of bluetongue; or
 - (c) carry out tests, and take samples (including blood samples) from any animal, carcase or thing, for the purpose of diagnosis or epidemiological investigation.
- (4) For the purposes of this article and article 27, each of the following is a “relevant purpose”—
- (a) monitoring or carrying out surveillance for—
 - (i) the bluetongue virus;
 - (ii) antibodies to the bluetongue virus; or
 - (iii) midges; or
 - (b) ensuring compliance with—
 - (i) this Order; or
 - (ii) the Commission Regulation.

(5) 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.

Powers of entry

27.—(1) A veterinary inspector, or an officer of the Scottish Ministers acting under the direction of a veterinary inspector, may, for a relevant purpose, at all reasonable hours, enter any premises (except premises used wholly or mainly as a private dwelling house), vehicle or vessel.

(2) A person entering premises, or a vehicle or vessel, under paragraph (1) must if required produce a duly authenticated document showing the person’s authority to enter.

(3) Where paragraph (4) applies a justice of the peace, stipendiary magistrate or sheriff may by signed warrant permit a person mentioned in paragraph (1) to enter any premises, if necessary by reasonable force.

(4) This paragraph applies where the justice, stipendiary magistrate or sheriff is satisfied, on sworn information in writing, that—

- (a) there are reasonable grounds to enter those premises for a relevant purpose; and
 - (b) any of the conditions in paragraph (5) is met.
- (5) Those conditions are—
- (a) entry to the premises has been, or is likely to be, refused, and notice of intention to apply for a warrant has been given to the occupier;
 - (b) asking for admission to the premises, or giving such notice, would defeat the object of entry;
 - (c) entry is required urgently; or
 - (d) the premises are unoccupied or the occupier is temporarily absent.
- (6) A warrant is valid for a period (fixed by the person granting it) of no more than three months.
- (7) A person entering any premises which are unoccupied or from which the occupier is temporarily absent must leave them as effectively secured against unauthorised entry as they were before entry.
- (8) A person entering premises, or a vehicle or vessel, under this article may—
- (a) take a vehicle;
 - (b) take any equipment the person considers necessary; and

- (c) be accompanied by—
 - (i) such other person as the person considers necessary; and
 - (ii) a representative of the European Commission acting for the purpose of enforcement of an EU obligation.

Costs of compliance

28. Unless the Scottish Ministers direct otherwise, the costs incurred by any person in taking any action required, or in refraining from taking action that is prohibited, by or under this Order must be met by that person.

Powers of inspectors in case of default

29. If any person fails to comply with any notice or other requirement in or under this Order, a veterinary inspector, inspector or officer of the Scottish Ministers as appropriate may take such steps as he or she considers necessary to ensure the notice or requirement is met, at the expense of that person.

Damage

- 30.** A person must not—
- (a) damage, interfere with or remove any traps set for midges as provided for under this Order; or
 - (b) deface, obliterate or remove any mark made by any person as provided for under this Order.

Provision of assistance

31.—(1) Any person required to give reasonable assistance or information to a person acting under this Order must do so without delay.

- (2) A person must not provide false or misleading information to anyone acting under this Order.

Offences by bodies corporate

32.—(1) Where—

- (a) an offence in relation to this Order is committed by a body corporate or a Scottish partnership or other unincorporated association; and
- (b) it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of—
 - (i) a relevant individual; or
 - (ii) an individual purporting to act in the capacity of a relevant individual,

the individual as well as the body corporate, Scottish partnership or unincorporated association commits an offence and is liable to be proceeded against and punished accordingly.

(2) In paragraph (1), “relevant individual” means—

- (a) in relation to a body corporate—
 - (i) a director, manager, secretary or other similar officer of the body;
 - (ii) where the affairs of the body are managed by its members, a member;
- (b) in relation to a Scottish partnership, a partner;

- (c) in relation to an unincorporated association other than a Scottish partnership, a person who is concerned in the management or control of the association.

Enforcement

33.—(1) This Order and the Commission Regulation are enforced by the local authority.

(2) But the Scottish Ministers may direct, in relation to cases of a particular description or to particular cases, that they will enforce this Order and the Commission Regulation instead of the local authority.