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SCOTTISH STATUTORY INSTRUMENTS

2014 No. 72

ANIMALS

ANIMAL HEALTH

The Brucellosis (Scotland) Amendment (No. 2) Order 2014

| | | |
|--|---------|------------------------|
| <i>Made</i> | - - - - | <i>12th March 2014</i> |
| <i>Laid before the Scottish Parliament</i> | | <i>14th March 2014</i> |
| <i>Coming into force</i> | | |
| <i>Articles 1 and 2</i> | | <i>31st March 2014</i> |
| <i>Article 3</i> | | <i>1st April 2014</i> |

The Scottish Ministers make the following Order in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a) and all other powers enabling them to do so.

Citation and commencement

- 1.—(1) This Order may be cited as the Brucellosis (Scotland) Amendment (No. 2) Order 2014.
- (2) This article and article 2 come into force on 31st March 2014.
- (3) Article 3 comes into force on 1st April 2014.

Amendment of the Brucellosis (Scotland) Amendment Order 2014

2. Article 2(8) of the Brucellosis (Scotland) Amendment Order 2014(b) is revoked.

Amendment of the Brucellosis (Scotland) Order 2009

3. In article 7 (sampling of milk) of the Brucellosis (Scotland) Order 2009(c), after paragraph (5) insert—

“(6) It is an offence for a person, without lawful authority or excuse, proof of which shall lie on that person, to fail to comply with paragraph (1), (1A), (2) or (3).”

(a) 1972 c.68 (“the 1972 Act”). Section 2(2) was amended by the Scotland Act 1998 (c.46), Schedule 8, paragraph 15(3) (which was amended by section 27(4) of the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”). Section 2(2) was also amended by section 27(1)(a) of the 2006 Act and by the European Union (Amendment) Act 2008 (c.7), Schedule, Part 1. The functions conferred upon the Minister of the Crown under section 2(2) of the 1972 Act, in so far as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.

(b) S.S.I. 2014/63.

(c) S.S.I. 2009/232, amended by S.S.I. 2011/51 and S.S.I. 2014/63.

- (7) Where—
- (a) an offence under paragraph (6) has been 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.
- (8) In paragraph (7), “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.
- (9) A person who commits an offence under paragraph (6) 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 both.”.

RICHARD LOCHHEAD
A member of the Scottish Government

St Andrew’s House,
Edinburgh
12th March 2014

EXPLANATORY NOTE

(This note is not part of the Order)

This Order (article 2) revokes article 2(8) of the Brucellosis (Scotland) Amendment Order 2014 (“the 2014 Order”), which amended article 7 of the Brucellosis (Scotland) Order 2009 (“the 2009 Order”).

Article 3 of this Order amends article 7 of the 2009 Order, to make it an offence where owners or keepers of bovine animals who sell processed milk or milk products fail to take quarterly milk samples and submit those for testing for evidence of the existence of brucellosis.

This Order corrects the error in article 2(8) of the 2014 Order by providing that the term of imprisonment on summary conviction for the offence may not exceed 3 months.

No business regulatory impact assessment has been prepared for this Order as no further impact on business, charities or voluntary bodies is foreseen.

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