



# Animal Health Act 2002

## 2002 CHAPTER 42

An Act to amend the Animal Health Act 1981.

[7th November 2002]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### PART 1

#### SLAUGHTER

#### 1 Foot-and-mouth disease

- (1) In the Animal Health Act 1981 (c. 22) (in this Act referred to as the 1981 Act) paragraph 3 of Schedule 3 (power to cause slaughter of animals because of foot-and-mouth disease) is amended as follows.
- (2) In sub-paragraph (1) omit “and” at the end of paragraph (a), and after paragraph (b) insert—
  - “(c) any animals the Secretary of State thinks should be slaughtered with a view to preventing the spread of foot-and-mouth disease.”
- (3) After sub-paragraph (1) insert—
  - “(1A) The Secretary of State may exercise the power under sub-paragraph (1)(c) whether or not animals—
    - (a) are affected with foot-and-mouth disease or suspected of being so affected;
    - (b) are or have been in contact with animals so affected;
    - (c) have been exposed to the infection of foot-and-mouth disease;
    - (d) have been treated with vaccine against foot-and-mouth disease.”

## **2 Extension of power to slaughter**

(1) In the 1981 Act the following section is inserted after section 32—

### **“32A Slaughter to prevent spread of disease**

- (1) The Secretary of State may by order amend Schedule 3 for the purpose of—
  - (a) authorising or requiring the slaughter of animals to be caused with a view to preventing the spread of disease other than foot-and-mouth disease;
  - (b) requiring the payment of compensation in respect of animals slaughtered by virtue of the order.
- (2) An order under this section may include—
  - (a) amendments corresponding to those made by section 1 of the Animal Health Act 2002;
  - (b) amendments as to slaughter in relation to any disease not referred to in Schedule 3 (apart from the order);
  - (c) supplementary or incidental provisions (including amendments of provisions other than Schedule 3).
- (3) No order may be made under this section unless a draft of the order has been laid before Parliament and approved by a resolution of each House.”

- (2) In section 35(2) of that Act (diseases to which power of seizure and disposal of carcasses applies), in paragraph (a)—
- (a) for the words “and swine-fever” substitute “, swine-fever and transmissible spongiform encephalopathies”;
  - (b) after “applies” insert “and any disease in respect of which an order under section 32A is in force”.

## **3 Disease control (slaughter) protocol**

In the 1981 Act the following sections are inserted after section 32A (as inserted by section 2 above)—

### **“32B Disease control (slaughter) protocol**

- (1) This section applies to a power exercisable by the Secretary of State under—
  - (a) paragraph 3(1)(c) of Schedule 3;
  - (b) such other provision of that Schedule (as amended by an order under section 32A(1)(a)) as the Secretary of State by order specifies;
  - (c) such other provisions of this Act relating to the control of disease as the Secretary of State by order specifies.
- (2) The Secretary of State must prepare a document (the disease control (slaughter) protocol) indicating—
  - (a) the purposes for which any power to which this section applies will be exercised;
  - (b) the principal factors to be taken into account in deciding whether to exercise the power;

- (c) the procedure to be followed in deciding whether in any circumstances or description of circumstances the power is to be exercised, which shall include the application of such methods of detecting disease in animals as may be available;
  - (d) the procedure to be followed by persons who have functions in relation to the exercise of the power;
  - (e) the means by which a particular decision to exercise the power may be reviewed.
- (3) After preparing a draft of the disease control (slaughter) protocol the Secretary of State—
- (a) must send a copy of the draft to such persons and organisations as he thinks are representative of those having an interest in the exercise of the power;
  - (b) must consider any representations made to him about the draft by such persons and organisations;
  - (c) may amend the draft accordingly.
- (4) After the Secretary of State has proceeded under subsection (3) he must publish the protocol in such manner as he thinks appropriate.
- (5) The Secretary of State must from time to time review the protocol and if he thinks it appropriate revise the protocol.
- (6) Subsections (2) to (4) apply to a revision of the protocol as they apply to its preparation.
- (7) The power to make an order must be exercised by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) It is immaterial that anything done for the purposes of subsections (2) to (4) is done before the passing of the Animal Health Act 2002.

### **32C Protocol: exercise of powers**

- (1) A power to which section 32B applies must not be exercised unless the protocol mentioned in that section has been published and has not been withdrawn.
- (2) Any act which is done in contravention of subsection (1) is done without lawful authority.
- (3) If a person who has any function in relation to the exercise of a power to which section 32B applies fails to act in accordance with the protocol he is not by reason only of that failure liable in any civil or criminal proceedings.
- (4) But the protocol is admissible in evidence in such proceedings and a court may take account of any failure to act in accordance with it in deciding any question in the proceedings.”

## **4 Explanation of preventive slaughter**

In the 1981 Act the following section is inserted after section 32C (as inserted by section 3 above)—

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### **“32D Explanation of preventive slaughter**

- (1) This section applies to a power exercisable by the Secretary of State under—
  - (a) paragraph 3(1)(c) of Schedule 3;
  - (b) any other provision of that Schedule as amended by an order under section 32A(1)(a).
- (2) The Secretary of State must not exercise a power to which this section applies unless before he first exercises the power in relation to any description of circumstances he publishes his reasons in relation to the circumstances of that description—
  - (a) for the exercise of the power;
  - (b) for not exercising his power under section 16 to cause animals to be treated with serum or vaccine.
- (3) If the Secretary of State does not comply with subsection (2) in relation to any description of circumstances anything done in connection with the exercise of the power in such circumstances must be taken to have been done without lawful authority.”

## **5 Slaughter of vaccinated animals**

In the 1981 Act the following section is inserted after section 16—

### **“16A Slaughter of vaccinated animals**

- (1) This section applies to any animal which has been treated with vaccine for the purpose of preventing the spread of foot-and-mouth disease or such other disease as the Secretary of State may by order specify.
- (2) The Secretary of State may cause to be slaughtered any animal to which this section applies.
- (3) The power conferred by this section extends to taking any action—
  - (a) which is required to enable any such animal to be slaughtered, or
  - (b) which is otherwise required in connection with the slaughter.
- (4) For any animal slaughtered under this section the Secretary of State must pay compensation in accordance with subsections (5) and (6).
- (5) In the case of an animal treated with vaccine for the purpose of preventing the spread of foot-and-mouth disease—
  - (a) if the animal was affected with foot-and-mouth disease the compensation is the value of the animal immediately before it became so affected;
  - (b) in any other case the compensation is the value of the animal immediately before it was slaughtered.
- (6) In the case of an animal treated with vaccine for the purpose of preventing the spread of a disease specified by order under subsection (1) the compensation is of such an amount as may be prescribed by order of the Secretary of State.

- (7) In arriving at a value under subsection (5) above no account is to be taken of the fact that the animal had been treated with vaccine as mentioned in that subsection.”
- (8) No order may be made under subsection (1) unless a draft of the order has been laid before Parliament and approved by a resolution of each House.
- (9) A statutory instrument containing an order under subsection (6) is subject to annulment in pursuance of a resolution of either House of Parliament.”

## PART 2

### SCRAPIE

#### 6 Scrapie

The Schedule contains provision about transmissible spongiform encephalopathies in sheep.

## PART 3

### ENFORCEMENT

#### *Powers*

#### 7 Treatment: power of entry

- (1) Section 16 of the 1981 Act (treatment after exposure to infection) is amended as follows.
- (2) In subsection (2) for “officer of the Minister” substitute “inspector”.
- (3) In that subsection omit the words from “taking with him” to the end.
- (4) After subsection (2) insert the following—
  - “(3) If a justice of the peace is satisfied on sworn information in writing that the first condition is satisfied and that the second or third condition is satisfied he may issue a warrant authorising an inspector to enter any land or premises, if necessary using reasonable force, for the purpose mentioned in subsection (2).
- (4) The information must include—
  - (a) a statement as to whether any representations have been made by the occupier of the land or premises to an inspector concerning the purpose for which the warrant is sought;
  - (b) a summary of any such representations.
- (5) The first condition is that there are reasonable grounds for an inspector to enter the land or premises for that purpose.
- (6) The second condition is that each of the following applies to the occupier of the premises—

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- (a) he has been informed of the decision to seek entry to the premises and of the reasons for that decision;
  - (b) he has failed to allow entry to the premises on being requested to do so by an inspector;
  - (c) he has been informed of the decision to apply for the warrant.
- (7) The third condition is that—
- (a) the premises are unoccupied or the occupier is absent and (in either case) notice of intention to apply for the warrant has been left in a conspicuous place on the premises, or
  - (b) an application for admission to the premises or the giving of notice of intention to apply for the warrant would defeat the object of entering the premises.
- (8) Subsections (9) to (12) apply to an inspector who enters any land or premises by virtue of subsection (2) or under a warrant issued under subsection (3).
- (9) The inspector may take with him—
- (a) such other persons as he thinks necessary to give him such assistance as he thinks necessary;
  - (b) such equipment as he thinks necessary.
- (10) The inspector may require any person on the land or premises who falls within subsection (11) to give him such assistance as he may reasonably require for the purpose mentioned in subsection (2).
- (11) The following persons fall within this subsection—
- (a) the occupier of the premises;
  - (b) a person appearing to the inspector to have charge of animals on the premises;
  - (c) a person appearing to the inspector to be under the direction or control of a person mentioned in paragraph (a) or (b).
- (12) If the inspector enters any unoccupied premises he must leave them as effectively secured against entry as he found them.
- (13) If the inspector enters any premises by virtue of a warrant issued under subsection (3) he must at the time of entry—
- (a) serve a copy of the warrant on the occupier of the premises, or (if the occupier is not on the premises)
  - (b) leave a copy of the warrant in a conspicuous place on the premises.
- (14) A warrant issued under subsection (3) remains in force for one month starting with the date of its approval by the justice of the peace, which date shall be clearly visible on the warrant.
- (15) A warrant issued under subsection (3) must be executed only at a reasonable hour unless the inspector thinks that the case is one of urgency.
- (16) In relation to any premises to which entry is obtained by virtue of a warrant under this section the Secretary of State must retain for a period of not less than 12 months beginning with the day after entry—
- (a) a copy of the warrant;

- (b) a copy of any record of the steps taken to effect entry to the premises and the actions taken on the premises by the inspector and any other person entering the premises with him.

(17) A person commits an offence if—

- (a) he is required to give assistance under subsection (10), and
- (b) he fails to give it.”

## **8 Slaughter: power of entry**

(1) In the 1981 Act the following sections are inserted after section 62—

### **“62A Slaughter: power of entry**

- (1) An inspector may at any time enter any premises for the purpose of—
  - (a) ascertaining whether a power conferred by or under this Act to cause an animal to be slaughtered should be exercised, or
  - (b) doing anything in pursuance of the exercise of that power.
- (2) In this section and sections 62B and 62C premises includes any land, building or other place.

### **62B Slaughter: warrants**

- (1) If a justice of the peace is satisfied on sworn information in writing that the first condition is satisfied and that the second or third condition is satisfied he may issue a warrant authorising an inspector to enter any premises, if necessary using reasonable force, for the purpose mentioned in section 62A.
- (2) The information must include—
  - (a) a statement as to whether any representations have been made by the occupier of the land or premises to an inspector concerning the purpose for which the warrant is sought;
  - (b) a summary of any such representations.
- (3) The first condition is that there are reasonable grounds for an inspector to enter the premises for that purpose.
- (4) The second condition is that each of the following applies to the occupier of the premises—
  - (a) he has been informed of the decision to seek entry to the premises and of the reasons for that decision;
  - (b) he has failed to allow entry to the premises on being requested to do so by an inspector;
  - (c) he has been informed of the decision to apply for the warrant.
- (5) The third condition is that—
  - (a) the premises are unoccupied or the occupier is absent and (in either case) notice of intention to apply for the warrant has been left in a conspicuous place on the premises, or

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- (b) an application for admission to the premises or the giving of notice of intention to apply for the warrant would defeat the object of entering the premises.
- (6) A warrant issued under this section remains in force for one month starting with the date of its approval by the justice of the peace, which date shall be clearly visible on the warrant.
- (7) A warrant issued under this section must be executed only at a reasonable hour unless the inspector thinks that the case is one of urgency.
- (8) In relation to any premises to which entry is obtained by virtue of a warrant under this section the Secretary of State must retain for a period of not less than 12 months beginning with the day after entry—
  - (a) a copy of the warrant;
  - (b) a copy of any record of the steps taken to effect entry to the premises and the actions taken on the premises by the inspector and any other person entering the premises with him.

### **62C Slaughter: supplementary**

- (1) This section applies to an inspector who enters any premises by virtue of section 62A or under a warrant issued under section 62B.
  - (2) The inspector may take with him—
    - (a) such other persons as he thinks necessary to give him such assistance as he thinks necessary;
    - (b) such equipment as he thinks necessary.
  - (3) The inspector may require any person on the premises who falls within subsection (4) to give him such assistance as he may reasonably require for the purpose mentioned in section 62A.
  - (4) The following persons fall within this subsection—
    - (a) the occupier of the premises;
    - (b) a person appearing to the inspector to have charge of animals on the premises;
    - (c) a person appearing to the inspector to be under the direction or control of a person mentioned in paragraph (a) or (b).
  - (5) If the inspector enters any premises by virtue of a warrant issued under section 62B he must at the time of entry—
    - (a) serve a copy of the warrant on the occupier of the premises, or (if the occupier is not on the premises)
    - (b) leave a copy of the warrant in a conspicuous place on the premises.
  - (6) If the inspector enters any unoccupied premises he must leave them as effectively secured against entry as he found them.”
- (2) In that Act the following section is inserted after section 66—



### **“66A Refusal and obstruction of inspector**

- (1) A person commits an offence if without lawful authority or excuse (proof of which shall lie on him) he—
  - (a) refuses admission to any premises to a person acting under section 62A above,
  - (b) obstructs or impedes him in so acting, or
  - (c) assists in any such obstruction or impeding.
- (2) A person commits an offence if—
  - (a) he is required to give assistance under section 62C(3), and
  - (b) he fails to give it.”

## **9 Tests and samples: power of entry**

In the 1981 Act the following sections are inserted after section 62C (inserted by section 8 of this Act)—

### **“62D Tests and samples: power of entry**

- (1) A veterinary inspector may at any time enter any premises for the purpose of ascertaining—
  - (a) whether disease anti-bodies exist in animals on the premises;
  - (b) whether any animal on the premises or which was kept there at any time is, or was at that time, infected with disease;
  - (c) whether any causative agent of disease is present on the premises.
- (2) Disease is foot-and-mouth disease and such other disease as the Secretary of State may by order specify.
- (3) No order may be made under subsection (2) unless a draft of the order has been laid before Parliament and approved by a resolution of each House.
- (4) Causative agent includes any virus, bacterium and any other organism or infectious substance which may cause or transmit disease.
- (5) In this section and sections 62E and 62F premises includes any land, building or other place.

### **62E Tests and samples: warrants**

- (1) If a justice of the peace is satisfied on sworn information in writing that the first condition is satisfied and that the second or third condition is satisfied he may issue a warrant authorising a veterinary inspector to enter any premises, if necessary using reasonable force, for the purpose mentioned in section 62D.
- (2) The information must include—
  - (a) a statement as to whether any representations have been made by the occupier of the land or premises to an inspector concerning the purpose for which the warrant is sought;
  - (b) a summary of any such representations.

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- (3) The first condition is that there are reasonable grounds for a veterinary inspector to enter the premises for that purpose.
- (4) The second condition is that each of the following applies to the occupier of the premises—
  - (a) he has been informed of the decision to seek entry to the premises and of the reasons for that decision;
  - (b) he has failed to allow entry to the premises on being requested to do so by an inspector;
  - (c) he has been informed of the decision to apply for the warrant.
- (5) The third condition is that—
  - (a) the premises are unoccupied or the occupier is absent and (in either case) notice of intention to apply for the warrant has been left in a conspicuous place on the premises, or
  - (b) an application for admission to the premises or the giving of notice of intention to apply for the warrant would defeat the object of entering the premises.
- (6) A warrant issued under this section remains in force for one month starting with the date of its approval by the justice of the peace, which date shall be clearly visible on the warrant.
- (7) A warrant issued under this section must be executed only at a reasonable hour unless the inspector thinks that the case is one of urgency.
- (8) In relation to any premises to which entry is obtained by virtue of a warrant under this section the Secretary of State must retain for a period of not less than 12 months beginning with the day after entry—
  - (a) a copy of the warrant;
  - (b) a copy of any record of the steps taken to effect entry to the premises and the actions taken on the premises by the inspector and any other person entering the premises with him.

#### **62F Tests and samples: supplementary**

- (1) This section applies to a veterinary inspector who enters any premises by virtue of section 62D or under a warrant issued under section 62E.
- (2) The inspector may take with him—
  - (a) such other persons as he thinks necessary to give him such assistance as he thinks necessary;
  - (b) such equipment as he thinks necessary.
- (3) The inspector may take such samples (including samples from any animal on the premises) and carry out such tests as he thinks are necessary for the purpose mentioned in section 62D(1).
- (4) The inspector may require any person on the premises who falls within subsection (5) to give him such assistance as he may reasonably require for the purpose mentioned in section 62D(1).
- (5) The following persons fall within this subsection—

- (a) the occupier of the premises;
  - (b) a person appearing to the inspector to have charge of animals on the premises;
  - (c) a person appearing to the inspector to be under the direction or control of a person mentioned in paragraph (a) or (b).
- (6) If the inspector enters any unoccupied premises he must leave them as effectively secured against entry as he found them.
- (7) If the inspector enters any premises by virtue of a warrant issued under section 62E he must at the time of entry—
- (a) serve a copy of the warrant on the occupier of the premises, or (if the occupier is not on the premises)
  - (b) leave a copy of the warrant in a conspicuous place on the premises.
- (8) A person commits an offence if—
- (a) he is required to give assistance under subsection (4), and
  - (b) he fails to give it.”

## 10 Inspection of vehicles

In the 1981 Act the following section is inserted after section 65—

### “65A Inspection of vehicles

- (1) If each of the conditions in subsection (2) is satisfied, an inspector may stop, detain and inspect any vehicle to ascertain whether the provisions of any of the following are being complied with—
- (a) this Act;
  - (b) an order made under this Act;
  - (c) a regulation of a local authority made in pursuance of such an order.
- (2) The conditions are—
- (a) that the vehicle is in a designated area in a designated period;
  - (b) that the inspector is accompanied by a constable in uniform.
- (3) In subsection (2) “designated” means designated by an order made by the Secretary of State.
- (4) A vehicle includes—
- (a) a trailer, semi-trailer or other thing which is designed or adapted to be towed by another vehicle;
  - (b) anything on a vehicle;
  - (c) a detachable part of a vehicle;
  - (d) a container or other structure designed or adapted to be carried by or on a vehicle.”

## 11 Obstruction

In section 60(5) of the 1981 Act (power to apprehend without warrant if officer is obstructed)—

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- (a) for “officer other than a constable” substitute “inspector”;
- (b) for “officer” (in the second place where the word occurs) substitute “inspector or a constable”.

### *Offences*

## 12 Deliberate infection of animals

(1) In the 1981 Act the following sections are inserted after section 28—

### “28A Deliberate infection

- (1) A person commits an offence if without lawful authority or excuse (proof of which shall lie on him) he knowingly does anything which causes or is intended to cause an animal to be infected with a disease specified in Schedule 2A.
- (2) A person guilty of an offence under subsection (1) is liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.
- (3) The Secretary of State may by order amend Schedule 2A.
- (4) A statutory instrument containing an order under subsection (3) is subject to annulment in pursuance of a resolution of either House of Parliament.

### 28B Deliberate infection: disqualification

- (1) If a person is convicted of an offence under section 28A the court may by order disqualify him, for such period as it thinks fit, from keeping or dealing in—
  - (a) any animals, or
  - (b) any animals of a specified kind.
- (2) The court may suspend the operation of the order—
  - (a) for such period as it thinks necessary to enable arrangements to be made for the keeping of any animals to which the disqualification relates;
  - (b) pending an appeal.
- (3) A person who is disqualified under subsection (1) may from time to time apply to the court which imposed the disqualification to remove it or vary it.
- (4) On an application under subsection (3) the court may by order—
  - (a) refuse the application,
  - (b) remove the disqualification, or
  - (c) vary the disqualification to apply it only to such animals or kind of animals as it specifies.
- (5) In considering an application under subsection (3) the court may have regard to—

- (a) the nature of the offence in respect of which the disqualification was imposed;
  - (b) the character of the applicant;
  - (c) his conduct since the disqualification was imposed.
- (6) The first application under subsection (3) must not be made before the end of the period of one year starting with the date the disqualification starts.
- (7) A further application must not be made before the end of the period of one year starting with the date of the court's last order.
- (8) For the purposes of this section keeping or dealing in an animal includes—
- (a) having custody or control of an animal;
  - (b) being concerned in the management or control of a body (whether or not incorporated) whose activities include keeping or dealing in animals.”
- (2) In that Act the following Schedule is inserted after Schedule 2—

“SCHEDULE 2A

SPECIFIED DISEASES

Foot-and-mouth disease  
Swine vesicular disease  
Peste des petits ruminants  
Lumpy skin disease  
Bluetongue  
African horse sickness  
Classical swine fever  
Newcastle disease  
Vesicular stomatitis  
Rinderpest  
Contagious bovine pleuropneumonia  
Rift Valley fever  
Sheep pox and goat pox  
African swine fever  
Highly pathogenic avian influenza.”

**13 Penalties for certain summary offences**

In the 1981 Act the following section is substituted for section 75—

“**75 Penalties for certain summary offences**

- (1) This section applies to any offence under this Act for which no penalty is specified.
- (2) A person guilty of an offence to which this section applies is liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale or to both.”

**14 Prosecutions: time limit**

In the 1981 Act the following section is inserted before section 72—

**“71A Prosecutions: time limit**

- (1) Despite anything in section 127(1) of the Magistrates' Courts Act 1980 an information relating to an offence under this Act which is triable by a magistrates' court in England and Wales may be so tried if it is laid at any time—
  - (a) within the period of three years starting with the date of the commission of the offence, and
  - (b) within the period of six months starting with the day on which evidence which the prosecutor thinks is sufficient to justify the proceedings comes to his knowledge.
- (2) A certificate by the prosecutor as to the date on which such evidence came to his knowledge is conclusive evidence of that fact.”

**PART 4****GENERAL****15 Duty to consider vaccination**

In the 1981 Act the following section is inserted after section 14A (as inserted by section 18) of this Act—

**“14B Duty to consider vaccination**

- (1) In relation to any occurrence of foot-and-mouth disease the Secretary of State must consider what is the most appropriate means of preventing the spread of the disease.
- (2) In particular he must consider whether in relation to the occurrence treating animals with serum or vaccine is more appropriate than any other means of preventing the spread of the disease.”

**16 Biosecurity guidance**

In the 1981 Act the following sections are inserted after section 6 (eradication areas and attested areas)—

**“6A Biosecurity guidance**

- (1) The Secretary of State must prepare guidance on the appropriate biosecurity measures to be taken in relation to—
  - (a) foot-and-mouth disease;
  - (b) such other disease as the Secretary of State by order specifies.
- (2) After preparing a draft of the guidance the Secretary of State—

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- (a) must send a copy of the draft to such persons and organisations as he thinks are representative of those having an interest in biosecurity measures;
  - (b) must consider any representations made to him about the draft by such persons and organisations;
  - (c) may amend the draft accordingly.
- (3) After the Secretary of State has proceeded under subsection (2) he must publish the guidance in such manner as he thinks appropriate.
- (4) The Secretary of State must from time to time review the guidance and if he thinks it appropriate revise the guidance.
- (5) Subsections (1) to (3) apply to a revision of the guidance as they apply to its preparation.
- (6) But if the Secretary of State thinks that it is necessary to revise the guidance urgently he may publish revised guidance without proceeding under subsection (2).
- (7) Biosecurity measures are measures taken to prevent the spread of causative agents of disease.
- (8) Causative agent includes any virus, bacterium and any other organism or infectious substance which may cause or transmit disease.
- (9) The power to make an order must be exercised by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (10) It is immaterial that anything done for the purposes of subsections (1) to (3) is done before the passing of the Animal Health Act 2002.

### **6B Biosecurity compliance**

- (1) A person having a function under this Act relating to foot-and-mouth disease or a disease specified by order under section 6A(1) must not exercise the function unless the guidance under section 6A has been published and has not been withdrawn.
- (2) Any act which is done in contravention of subsection (1) is done without lawful authority.
- (3) If a person to whom subsection (5) applies fails to comply with the guidance he is not by reason only of that failure liable in any civil or criminal proceedings.
- (4) But the guidance is admissible in evidence in such proceedings and a court may take account of any failure to act in accordance with it in deciding any question in the proceedings.
- (5) This subsection applies to—
- (a) any person having functions under this Act;
  - (b) any person who is the owner or occupier of premises on which animals are kept;
  - (c) any person who has charge of animals;

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- (d) any person who is under the direction of a person mentioned in paragraphs (a) to (c).”

## **17 Annual review of import controls**

In the 1981 Act the following section is inserted after section 10—

### **“10A Annual review of import controls**

- (1) The Ministers shall prepare a report during each financial year which will—
  - (a) review all activities of government departments, the Food Standards Agency, local authorities, customs, police authorities and other relevant public agencies directed to the prevention of the introduction of disease into or within England and Wales through the importation of animal products and matter, whether animate or inanimate, and other things;
  - (b) identify the nature, origin and quantity of such animal products and matter and stating whether the product or matter was destined for personal or commercial consumption;
  - (c) assess the making of any orders under section 10 of this Act;
  - (d) assess the effectiveness of any action taken under an order made under section 10 of this Act; and
  - (e) propose such further action as may, on the basis of advice given to the Ministers by suitably qualified individuals appointed as scientific advisers to the Ministers, be required to further reduce the risk of disease being imported.
- (2) The Ministers shall lay their report before Parliament and the National Assembly for Wales at the end of each financial year.”

## **18 National contingency plan**

Before section 15 of the 1981 Act (requirements on certain persons relating to animals affected with disease) there is inserted the following section—

### **“14A National contingency plan**

- (1) The appropriate authority must prepare a document (the national contingency plan) indicating the arrangements the authority intends to put in place for the purpose of dealing with any occurrence of—
  - (a) foot-and-mouth disease;
  - (b) such other disease as the authority by order specifies.
- (2) After preparing a draft of the national contingency plan the appropriate authority—
  - (a) must send a copy of the draft to such persons and organisations as the authority thinks are representative of those having an interest in the arrangements;
  - (b) must consider any representations made to the authority about the draft by such persons and organisations;
  - (c) may amend the draft accordingly.



- (3) After the appropriate authority has proceeded under subsection (2) the authority must—
  - (a) lay the plan before Parliament (unless subsection (9) applies);
  - (b) publish it in such manner as the authority thinks likely to bring it to the attention of persons who may be affected by the arrangements.
- (4) The appropriate authority must from time to time (but not less frequently than at intervals of one year) review the plan and if the authority thinks it appropriate revise the plan.
- (5) Subsections (2) and (3) apply to a revision of the plan as they apply to its preparation.
- (6) The power to make an order must be exercised by statutory instrument.
- (7) The instrument is subject to annulment in pursuance of a resolution of either House of Parliament (unless subsection (9) applies).
- (8) The appropriate authority is—
  - (a) the Secretary of State in relation to England;
  - (b) the Secretary of State and the National Assembly for Wales acting jointly in relation to Wales (except for the purposes of subsection (1)(b));
  - (c) the National Assembly for Wales in relation to Wales for the purposes of subsection (1)(b).
- (9) This subsection applies to a plan prepared in relation to Wales.
- (10) It is immaterial that anything done for the purposes of subsections (1) to (3) (except the making of an order under subsection (1)(b)) is done before the passing of the Animal Health Act 2002.”

## **19 Commencement**

- (1) The preceding provisions of this Act come into force in accordance with provision made by the Secretary of State by order made by statutory instrument.
- (2) An order under this section may make different provision for different purposes.

## **20 Finance**

Any expenditure incurred by a Minister of the Crown in consequence of this Act is to be paid out of money provided by Parliament.

## **21 Extent**

This Act extends only to England and Wales.

## **22 Short title**

This Act may be cited as the Animal Health Act 2002.

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## SCHEDULE

Section 6

## SCRAPIE

In the Animal Health Act 1981 (c. 22) the following Part is inserted after Part 2—

## “PART 2A

## SCRAPIE

*Sheep genotypes***36A Power of Secretary of State to specify sheep genotypes**

The Secretary of State may by order specify sheep genotypes which, in his opinion, are more susceptible than other sheep genotypes—

- (a) to infection by transmissible spongiform encephalopathies generally, or by a particular form of transmissible spongiform encephalopathy, or
- (b) to becoming carriers.

*Genetically susceptible sheep***36B Identification of genetically susceptible sheep**

- (1) The Secretary of State may by regulations make provision requiring the keeper of any sheep—
  - (a) to allow an inspector to take a sample from it, for the purpose of establishing its genotype;
  - (b) to allow an inspector to administer or otherwise attach to it an electronic identification device;
  - (c) where the genotype of the sheep has been established (whether or not as a result of the exercise of powers conferred by this Part) to keep a record of its genotype.
- (2) The regulations may, in particular—
  - (a) provide that only electronic identification devices of a prescribed kind may be administered or attached;
  - (b) make provision as to the assistance which an inspector may require the keeper to give to him;
  - (c) make provision with respect to the testing of samples;
  - (d) require the issuing and keeping of certificates recording the genotypes of sheep.

**36C Restrictions on breeding from genetically susceptible sheep**

- (1) This section applies where it appears to the Secretary of State that a sheep is of a genotype specified in an order under section 36A.
- (2) The Secretary of State must consider whether there are exceptional circumstances that justify allowing the sheep to be used for breeding.
- (3) If it appears to the Secretary of State that allowing the sheep to be used for breeding would not be justified, he must give notice to its keeper (“a restriction notice”) that the

restrictions and requirements imposed by subsections (7) to (9) apply in relation to the sheep.

- (4) A restriction notice—
  - (a) may be made so as to apply to more than one sheep, and
  - (b) may describe the sheep to which it applies in such a way as the Secretary of State considers appropriate.
- (5) If the keeper of a sheep is not the same person as its owner, the Secretary of State may give a separate restriction notice to the owner.
- (6) Subsections (7) to (9) apply to a person to whom a restriction notice is given.
- (7) He must not—
  - (a) use a sheep to which the notice applies, or its semen, eggs or embryos, for purposes of or connected with breeding, or
  - (b) cause or permit such a sheep or such semen, eggs or embryos to be used by another person for those purposes.
- (8) He must arrange for any semen, egg or embryo which has at any time been taken from a sheep to which the notice applies, and which is in his possession or under his control, to be destroyed.
- (9) He must arrange for each sheep to which the notice applies—
  - (a) to be castrated or (as appropriate) sterilised before the end of the period of one month beginning with the date on which the notice was given, or
  - (b) to be slaughtered before the end of the period of seven months beginning with that date.
- (10) For the purposes of subsection (2) exceptional circumstances include circumstances in which the imposition in relation to the sheep of the restrictions and requirements of subsections (7) to (9) is likely to cause the extinction of the breed of which the sheep is a member.

### **36D Appeals**

- (1) A person to whom a restriction notice has been given may appeal against the notice to a person appointed by the Secretary of State for the purpose of dealing with appeals under this Part (“an assessor”).
- (2) An appeal may not be brought after the end of the period of 21 days beginning with the date on which the notice concerned was given to the appellant.
- (3) But the Secretary of State may, in a particular case, extend the period of 21 days if he considers that there are exceptional circumstances justifying the extension.
- (4) If the restriction notice applies to more than one sheep, the appeal may be limited to the sheep specified by the appellant.
- (5) If the assessor allows the appeal, in whole or in part, he may—
  - (a) revoke the notice,
  - (b) revoke the notice so far as it applies to one or more sheep specified by him, or
  - (c) direct that a further test is carried out in relation to sheep specified by him.
- (6) A direction under subsection (5)(c) may require—

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- (a) a further sample to be taken,
  - (b) the further test to be carried out by a different testing laboratory.
- (7) The Secretary of State may make regulations supplementing the provisions of this section.
- (8) The regulations may, in particular, make provision—
- (a) as to the procedure to be followed on an appeal,
  - (b) extending the period mentioned in section 36C(9)(a) where an appeal is brought against a restriction notice,
  - (c) requiring the appellant to meet the reasonable costs of, and in connection with, the taking of a further sample or the carrying out of a further test as a result of a direction under subsection (5)(c), and
  - (d) as to the recovery of any such costs.
- (9) The revocation of a restriction notice (in whole or in part) by an assessor does not prevent the issue of another restriction notice, following the testing of a further sample.

### *Enforcement*

#### **36E Secretary of State's powers of enforcement**

- (1) This section applies if the Secretary of State is satisfied that a person to whom a restriction notice has been given has failed to comply with one or more of the restrictions or requirements imposed on him by section 36C.
- (2) But it does not apply in relation to any sheep—
- (a) which is the subject of an appeal under section 36D which has not been disposed of, or
  - (b) which, as the result of a successful appeal, is no longer subject to the restriction notice.
- (3) The Secretary of State may take such reasonable steps as he considers appropriate to secure that the failure is remedied.
- (4) In particular, the Secretary of State may cause to be castrated (or as appropriate sterilised) or slaughtered any sheep—
- (a) which is the subject of the notice, but
  - (b) which has neither been castrated (or as appropriate sterilised) nor slaughtered within the period mentioned in section 36C(9)(b).
- (5) The Secretary of State may make regulations supplementing the provisions of this section.

#### **36F Offences**

- (1) A person to whom a restriction notice is given commits an offence (whether or not the notice is the subject of an appeal) if—
- (a) he sells (or otherwise transfers to another person) a sheep to which the notice applies, or any of its semen, eggs or embryos;
  - (b) he fails, without reasonable excuse (proof of which lies on him) to comply with any of the restrictions or requirements imposed by subsections (7) to (9) of section 36C.

- (2) Any other person commits an offence if he uses any semen, egg or embryo which he knows, or has reasonable cause to believe, has been taken from a sheep which is the subject of a restriction notice.
- (3) A person commits an offence if, without reasonable excuse (proof of which lies on him), he fails to comply with any provision of regulations made under section 36B.
- (4) A person commits an offence if he obstructs an inspector or any other person discharging, or attempting to discharge, functions conferred by or under this Part.

#### *Power of entry*

### **36G Power of entry**

- (1) An inspector or a constable may at all reasonable times enter any premises for the purpose of—
  - (a) carrying out any function he has under or in pursuance of this Part, or
  - (b) ascertaining whether any such function should be exercised.
- (2) Subsection (1) does not apply to premises used only as a private dwelling-house unless 24 hours' notice of the intended entry is given to the occupier.
- (3) A person acting under subsection (1) must, if required, show evidence of his authority to act under that subsection.

### **36H Warrants**

- (1) If a justice of the peace is satisfied on sworn information in writing that the first condition is satisfied and that the second or third condition is satisfied he may issue a warrant authorising a person mentioned in section 36G(1) to enter premises, if necessary using reasonable force, for the purpose there mentioned.
- (2) The information must include—
  - (a) a statement as to whether any representations have been made by the occupier of the land or premises to an inspector concerning the purpose for which the warrant is sought;
  - (b) a summary of any such representations.
- (3) The first condition is that there are reasonable grounds for a person mentioned in section 36G(1) to enter premises for the purpose there mentioned.
- (4) The second condition is that each of the following applies to the occupier of the premises—
  - (a) he has been informed of the decision to seek entry to the premises and of the reasons for that decision;
  - (b) he has failed to allow entry to the premises on being requested to do so by a person mentioned in section 36G(1);
  - (c) he has been informed of the decision to apply for the warrant.
- (5) The third condition is that—
  - (a) the premises are unoccupied or the occupier is absent and (in either case) notice of intention to apply for the warrant has been left in a conspicuous place on the premises, or

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- (b) an application for admission to the premises or the giving of notice of intention to apply for the warrant would defeat the object of entering the premises.
- (6) A warrant issued under this section remains in force for one month starting with the date of its approval by the justice of the peace, which date shall be clearly visible on the warrant.
- (7) A warrant issued under this section must be executed only at a reasonable hour unless the person authorised by the warrant to enter the premises thinks that the case is one of urgency.
- (8) In relation to any premises to which entry is obtained by virtue of a warrant under this section the Secretary of State must retain for a period of not less than 12 months beginning with the day after entry—
  - (a) a copy of the warrant;
  - (b) a copy of any record of the steps taken to effect entry to the premises and the actions taken on the premises by the person authorised by the warrant to enter the premises and any other person entering the premises with him.

### **36I Supplementary**

- (1) This section applies to a person who enters premises by virtue of section 36G(1) or under a warrant issued under section 36H (an authorised person).
- (2) An authorised person may take with him—
  - (a) such other persons as he thinks necessary to give him such assistance as he thinks necessary;
  - (b) such equipment as he thinks necessary.
- (3) An authorised person may require any person on the premises who falls within subsection (4) to give him such assistance as he may reasonably require for the purpose mentioned in section 36G(1).
- (4) The following persons fall within this subsection—
  - (a) the occupier of the premises;
  - (b) a person appearing to the inspector to have charge of animals on the premises;
  - (c) a person appearing to the inspector to be under the direction or control of a person mentioned in paragraph (a) or (b).
- (5) An authorised person may—
  - (a) inspect any records (in whatever form they are held) relating to the keeping, acquisition or disposal of animals;
  - (b) seize and detain any records which he reasonably thinks may be needed as evidence in any proceedings under or by virtue of this Act.
- (6) If an authorised person enters any unoccupied premises he must leave them as effectively secured against entry as he found them.
- (7) If an authorised person enters any premises by virtue of a warrant issued under section 36H he must at the time of entry—
  - (a) serve a copy of the warrant on the occupier of the premises, or (if the occupier is not on the premises)
  - (b) leave a copy of the warrant in a conspicuous place on the premises.

### **36J Offences**

- (1) A person commits an offence if without lawful authority or excuse (proof of which shall lie on him) he—
  - (a) refuses admission to any premises to a person acting under section 36G above,
  - (b) obstructs or impedes him in so acting, or
  - (c) assists in any such obstruction or impeding.
- (2) A person commits an offence if—
  - (a) he is required to give assistance under section 36I(3), and
  - (b) he fails to give it.

### *General*

### **36K Compensation**

The Secretary of State may make regulations providing for the payment by him of compensation in respect of loss suffered or costs incurred as a result of the exercise of a power conferred by or under this Part.

### **36L Orders and Regulations**

- (1) A power to make an order or regulations under this Part is exercisable by statutory instrument.
- (2) Such a statutory instrument is subject to annulment in pursuance of a resolution of either House of Parliament.

### **36M Interpretation**

In this Part—

- “keeper”, in relation to a sheep, includes an owner of the sheep;
- “premises” includes any land, building or other place;
- “restriction notice” means a notice given under section 36C.”