

2006 No. 394

ANIMALS, ENGLAND

ANIMAL HEALTH

The Tuberculosis (England) Order 2006

Made - - - - - *17th February 2006*

Coming into force

for the purposes of article 2(1) *18th February 2006*

for all other purposes *27th March 2006*

The Secretary of State in exercise of powers conferred by sections 1, 7(1), 8(1), 15(4), 25, 32(2), 87(2) and 88(2) of the Animal Health Act 1981(a) and now vested in her (b) makes the following Order:

Title, commencement and application

1.—(1) This Order may be cited as the Tuberculosis (England) Order 2006 and comes into force—

- (a) for the purposes of article 2(1) on 18th February 2006;
- (b) for all other purposes on 27th March 2006.

(2) This Order applies in England only.

Revocations

2.—(1) The Tuberculosis (England) Order 2005(c) and the Tuberculosis (England) (Amendment) Order 2006(d) are revoked.

(2) The Tuberculosis (England and Wales) Order 1984(e) and the Tuberculosis (England and Wales) (Amendment) Order 1990(f) are revoked in so far as they apply in England.

Interpretation

3.—(1) In this Order:

“the Act” means the Animal Health Act 1981;

(a) 1981 c. 22.

(b) Functions conferred by the 1981 Act on ‘the Ministers’ (as defined in section 86 of the Act) are now exercisable by the Secretary of State. Functions conferred on “the Ministers” were transferred, so far as exercisable by the Secretaries of State for Scotland and Wales, to the Minister of Agriculture, Fisheries and Food by the Transfer of Functions (Agriculture and Food) Order 1999 (SI 1999/3141) and were then further transferred to the Secretary of State by the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (SI 2002/794).

(c) S.I. 2005/3446

(d) S.I. 2006/140.

(e) S.I. 1984/1943.

(f) S.I. 1990/1869.

“affected animal” means a cow which is affected with tuberculosis of the udder or is giving tuberculous milk, or a bovine animal which is affected with tuberculous emaciation, or is excreting or discharging tuberculous material, or is affected with a chronic cough, or shows any other clinical sign of tuberculosis;

“bovine animal” means domestic cattle of the genus *Bos*, buffalo and bison;

“the Divisional Veterinary Manager” means the veterinary inspector appointed by the Secretary of State to receive information about animals or carcasses affected or suspected of being affected with specified diseases, for the area in which the animal or carcass is;

“finishing unit” means premises where bovine animals are fattened and from where they are sent to slaughter;

“reactor” means a bovine animal which produces a reaction to a relevant test which is consistent with its being affected with tuberculosis;

“relevant test” means a skin test or other diagnostic test for tuberculosis;

“skin test” means a single intradermal comparative cervical tuberculin test for tuberculosis;

“suspected animal” means a bovine animal that is suspected of being affected with tuberculosis, and includes a reactor;

“tuberculosis” means infection with *Mycobacterium bovis* (*M.bovis*).

Extension of definition of “disease” and power to slaughter on account of tuberculosis

4. For the purposes of the Act, the definition of “disease” in section 88(1) of the Act is extended so as to include tuberculosis, and section 32 of the Act (power to slaughter animals) shall apply to that disease.

Notification of disease in bovine animals

5.—(1) Any person who suspects that a bovine animal in his possession or under his charge on any premises is or may be an affected animal, shall forthwith—

- (a) notify the Divisional Veterinary Manager
- (b) pending conclusion of the veterinary inquiry under article 7 and the service of any notice under that article—
 - (i) detain that animal on the premises where it then is;
 - (ii) isolate it as far as practicable from other bovine animals; and
 - (iii) adopt precautions with respect to milk produced by that animal as if a notice under article 7 had already been served.

(2) A veterinary surgeon who suspects that an animal examined by him in the course of his practice is or may be an affected animal, shall forthwith notify the Divisional Veterinary Manager.

Notification of disease in carcasses

6.—(1) Any person who—

- (a) has in his possession or under his charge on any premises any carcass which is affected with or suspected of being affected with tuberculosis;
- (b) in the course of his practice as a veterinary surgeon, examines any such carcass; or
- (c) in the course of his duties, inspects any such carcass for any purpose;

shall, immediately he suspects the carcass may be affected with tuberculosis, notify the Divisional Veterinary Manager.

(2) A person who has in his possession or under his charge a carcass to which paragraph (1) applies shall detain it on the premises where it then is until it has been examined by a veterinary inspector.

(3) For the purpose of paragraphs (1) and (2) above, “carcase” means the carcase of any bovine animal or other farmed or pet mammal.

Veterinary enquiry as to the existence of disease

7.—(1) Where a veterinary inspector has reason to believe an affected animal or a suspected animal (other than a reactor) or a carcase of a bovine animal which is affected with or suspected of being affected with tuberculosis is present on any premises, he shall, with all practicable speed, take such steps as may be necessary to establish whether it is in fact an affected or suspected animal or carcase.

(2) For the purpose of carrying out his duties under this article a veterinary inspector may examine any bovine animal or carcase of a bovine animal on the premises and take such samples from any such animal or carcase or carry out such tests as may be required for the purpose of diagnosis.

(3) A veterinary inspector shall serve a notice on the keeper of any bovine animal examined by him which in his opinion is an affected or suspected animal, requiring the keeper to—

- (a) detain that animal in accordance with the requirements of the notice and keep it isolated from other bovine animals;
- (b) where appropriate take steps to ensure that the milk produced by the animal is not mixed with other milk and is boiled or otherwise sterilized and that any utensil with which such milk has been in contact before it is so treated shall be thoroughly cleansed and scalded with steam or boiling water before the utensil is used again; and
- (c) ensure that no bovine animal is moved on to or off the premises or such part of the premises as is specified in the notice except under the authority of a licence issued by an inspector.

Tuberculosis testing

8.—(1) The Secretary of State may by notice served on the keeper of a bovine animal, require any such animal to be tested for tuberculosis by a specified date.

(2) Without prejudice to article 13, where there has been a failure to test an animal in accordance with a notice served under paragraph (1) the Secretary of State may, by notice served on the keeper of that animal, prohibit the movement of bovine animals, or of such bovine animals as are specified in the notice, on to or off the premises or any part of them, except under the authority of a licence issued by an inspector.

(3) The keeper of any bovine animal shall comply with all reasonable requirements of an inspector with a view to—

- (a) facilitating the examination of that animal by that inspector;
- (b) the application to it of any relevant test for tuberculosis; or
- (c) the valuation of the animal in a case where the Secretary of State intends to cause it to be slaughtered under section 32 of the Act in its application to tuberculosis,

and in particular shall arrange at his own expense for the collection, penning and securing of any such animal if so required.

(4) Without prejudice to any proceedings for an offence under this Order, where there has been a failure to test an animal in accordance with a notice issued under paragraph (1), the Secretary of State may take or cause to be taken all the steps that may be necessary to facilitate the examination, testing and, if appropriate, the valuation of that animal, (including the removal of that animal from the premises on which it is kept) and the amount of any expenses reasonably incurred by the Secretary of State for the purpose of making good the default shall be recoverable by her from the person in default.

(5) Where a relevant test has been applied to a bovine animal, no person shall move that animal from the premises on which it is kept unless—

- (a) the movement is under the authority of a licence issued by a veterinary inspector; or

- (b) the results of the test have been read by an inspector with a negative result.
- (6) No person shall interfere with the administration or the reading of a relevant test.

Pre-Movement Testing

9.—(1) Subject to paragraph (2) and to articles 11 and 23, and without prejudice to the requirements of the Artificial Insemination of Cattle (Animal Health) (England and Wales) Regulations 1985^(a), no person shall move a bovine animal from any premises unless a skin test has been applied to it no more than 60 days before the date of movement.

(2) Paragraph (1) shall not apply to the following animals—

- (a) bovine animals in herds that are subject to routine testing for tuberculosis less frequently than annually or biennially;
- (b) bovine animals that are under 6 weeks of age at the date of the movement;
- (c) bovine animals that have been present on the premises for no more than 30 days at the date of the movement;
- (d) bovine animals that are subject to routine annual testing for the following public health reasons only—
 - (i) they are on a farm considered by the Divisional Veterinary Manager to be an open farm;
 - (ii) they are part of a herd from which the Dairy Hygiene Inspectorate has approved the sale of raw cow's milk for drinking direct to the end consumer, either by retail sale of bottled milk or as part of an on-farm catering business;
 - (iii) they are part of a herd from which raw cow's milk is regularly used for the manufacture of unpasteurised cheese or other unpasteurised dairy products;
- (e) bovine animals at an approved semen collection centre.

(3) For the purposes of paragraph (1) the date of a test shall be the date of injection of tuberculin.

(4) For the purposes of paragraph (2) (d) (i) of this article, “open farm” means a farm which is open for visits by the public or by sections of the public.

Tuberculosis test records

10.—(1) Where a skin test has been applied to a bovine animal, the Secretary of State shall, as soon as practicable after the results of the test have been read by an inspector, give the keeper of that animal a record in writing of the results of the test.

(2) Paragraph (1) shall not apply to animals in respect of which movement is, or remains prohibited under this Order following the test.

(3) The keeper of any animal to which paragraph (1) applies shall—

- (a) retain the record of the results of the test for a period of 3 years and 60 days following the date of injection of tuberculin; and
- (b) produce such record when requested to do so by an inspector.

Permitted Movements

11. Notwithstanding article 9, the following movements are permitted—

- (a) movements specified in the Schedule; and
- (b) any movement under the authority of a licence issued by a veterinary inspector.

(a) S.I 1985/1861.

Prohibitions

12.—(1) No person shall vaccinate a bovine animal against tuberculosis without the consent in writing of the Secretary of State.

(2) No person shall treat a bovine animal for tuberculosis without the consent in writing of the Secretary of State.

(3) No person shall test a bovine animal for tuberculosis except with the consent in writing of the Secretary of State and a person to whom any such consent is given shall, as soon as he knows the result of the test, report it immediately to the Secretary of State.

Prohibition on movement of animals

13. Without prejudice to articles 7(3)(c) and 8(2), an inspector may, for the purpose of controlling or preventing the spread of tuberculosis, by notice served on the keeper of bovine animals kept on such premises as are specified in the notice, prohibit the movement of bovine animals, or of such bovine animals as are specified in the notice, on to or off such premises, except under the authority of a licence issued by an inspector.

Notification of intended slaughter of animals

14.—(1) Where the Secretary of State intends to cause a bovine animal to be slaughtered under section 32 of the Act in its application to tuberculosis, an inspector shall serve a notice on the keeper of the animal informing him of the intended slaughter and requiring him to detain the animal pending such slaughter (or pending its surrender and removal for such slaughter) on such part of the premises as is specified in the notice and to isolate it as far as practicable from such other animals as are so specified.

(2) Where a notice has been served under paragraph (1), no person shall move the animal, other than to slaughter, except under the authority of a licence issued by an inspector.

Precautions against spread of infection

15.—(1) Where a veterinary inspector is satisfied that any bovine animal kept on any premises is an affected animal or a reactor, he may, by notice served on the keeper of any such animal, require him—

- (a) to treat and store manure or slurry from any place which has been used by any such animal in accordance with the requirements of the notice;
- (b) not to spread any manure or to spray or spread any slurry from any place which has been used by any such animal otherwise than in accordance with the requirements of the notice;
- (c) not to remove manure, slurry or other animal waste from the premises except under authority of a licence issued by an inspector;
- (d) to take such steps as may be reasonably practicable to prevent any bovine animal kept on the premises from infecting any bovine animal kept on any adjoining premises;
- (e) to arrange for the isolation of any bovine animal or animals which may be specified in the notice on any specified part or parts of the premises;
- (f) to ensure that any part or parts of the premises specified in the notice shall not be used by any bovine animal on the premises, or by such animal or animals as may be specified;
- (g) at his own expense, and within such time and in such manner as may be specified in the notice, to cleanse and disinfect such part or parts of the premises as may be specified;
- (h) to cleanse and disinfect all utensils and other articles used for or about an animal to which the notice relates within such time and in such manner as may be specified in the notice.

(2) If any person on whom a notice is served under paragraph (1) fails to comply with the requirements of the notice, the Secretary of State may, without prejudice to any proceedings arising out of such default, carry out or cause to be carried out the requirements of the notice, and

the amount of any expenses reasonably incurred by the Secretary of State for the purpose of making good the default shall be recoverable by her from the person in default.

Suspected animals in markets, shows and sales

16. Where a veterinary inspector reasonably believes that a bovine animal on any premises at which a show, exhibition, market, sale or fair is being held, is affected or suspected of being affected with, or has been exposed to infection by tuberculosis, he may—

- (a) by notice served on the keeper of the animal, require that animal to be removed from those premises, and (as the keeper of the animal may elect) taken—
 - (i) to a slaughterhouse for immediate slaughter; or
 - (ii) back to the premises from which the animal was brought to the show, exhibition, market, sale or fair; or
 - (iii) to such other premises as may be approved by the veterinary inspector for the purpose;
- (b) by notice served on the person in charge of the premises—
 - (i) require him to ensure that any part or parts of the premises specified in the notice shall not be used by any other bovine animal for such period as may be specified in the notice;
 - (ii) require him at his own expense, and within such time and in such manner as may be specified in the notice—
 - (aa) to cleanse and disinfect such part or parts of the premises as may be specified in the notice;
 - (bb) to dispose of any manure, slurry or other animal waste, straw, litter or other matter that has, or might have, come into contact with such animal.

(2) Where a bovine animal is moved in accordance with paragraph (1)(a)(ii) or (iii) it shall immediately be put into isolation and shall not be moved again except under the authority of a licence issued by an inspector.

Control of infection from other animals

17.—(1) Where a veterinary inspector reasonably believes that an animal kept on any premises is or may be affected with tuberculosis, he may by notice served on the occupier of such premises—

- (a) require him to keep the animal under control in such manner as may be specified in the notice or to confine it to such part of the premises as may be specified; and
- (b) prohibit the movement of animals on to or off such premises, except under the authority of a licence issued by an inspector.

(2) For the purposes of paragraphs (1) above “animal” means any kind of mammal except man, but not a bovine animal.

Marking of bovine animals

18.—(1) If he is directed to do so by an inspector, the keeper of bovine animals kept on any premises shall mark such animals in the manner required by the inspector.

(2) The inspector may mark bovine animals kept on any premises.

(3) No person shall change or interfere with any mark which has been applied under this article.

Isolation of *M. bovis* in a laboratory

19.—(1) Where the presence of the organism *M. bovis* is identified by a laboratory examination of a sample taken from any mammal (other than man) or from the carcase, products or

surroundings of any such mammal, the person in charge of that laboratory shall immediately notify the Veterinary Laboratories Agency.

(2) The duty to notify the Veterinary Laboratories Agency in paragraph (1) above, shall not apply where *M. bovis* is present in the sample as a result of its deliberate introduction as part of research involving the use of that organism.

General Provisions as to Notices and Licences

20.—(1) Any licence issued under this Order shall be in writing, may be general or specific, and may be made subject to conditions.

(2) A notice served or licence issued under this Order may be amended, suspended or withdrawn at any time by further notice issued by an inspector.

Production of licences

21. Where a bovine animal is moved under the authority of a licence (other than a general licence) issued under this Order—

- (a) the animal shall be accompanied throughout such movement by the licence; and
- (b) the person in charge of the animal being moved under the authority of a licence shall, on demand made under this Order by an inspector, furnish his name and address and shall produce the licence and allow a copy of it to be taken.

Enforcement

22.—(1) This Order shall be enforced by the local authority.

(2) The Secretary of State may direct, in relation to cases of a particular description or any particular case, that an enforcement duty imposed on a local authority under this Order shall be discharged by the Secretary of State and not by the local authority.

Transitional Provisions

23. Up to and including 28th February 2007 article 9 shall not apply to animals aged below 15 months on the date of the movement.

Savings

24. Any notice issued, or licence or consent granted under the Tuberculosis (England and Wales) Order 1984 and which has effect at the coming into force of this Order shall remain in force as if it were a notice issued or licence or consent granted under this Order.

17th February 2006

Jim Knight
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

SCHEDULE

Article 11

Permitted Movements

The following movements are permitted without pre movement testing:

Movement to slaughter

1. The movement of a bovine animal direct to slaughter.

Movement to slaughter markets

2. The movement of a bovine animal direct to a market from which all animals go direct to slaughter.

Movement to exempt finishing units

3. The movement of a bovine animal direct to an exempt finishing unit, being a finishing unit which has been approved by the Secretary of State for the reception of bovine animals which have not been pre-movement tested for tuberculosis in accordance with this Order.

Movements to exempt markets

4. The movement of a bovine animal direct to an exempt market, being a market which has been approved by the Secretary of State for the reception of bovine animals which have not been pre-movement tested for tuberculosis in accordance with this Order, provided that it is either returned direct to its premises of origin, direct to an exempt or approved finishing unit or direct to slaughter.

Movements to approved collecting centres

5. The movement of a bovine animal direct to an approved collecting centre, being a collecting centre approved by the Secretary of State for the reception of bovine animals which come from premises which are under movement restriction in relation to tuberculosis.

Movements to approved finishing units

6. The movement of a bovine animal direct to an approved finishing unit, being a finishing unit approved by the Secretary of State for the reception of bovine animals which come from premises which are under movement restriction in relation to tuberculosis.

Common land

7.—(1) The movement of a bovine animal between land over which the owner or keeper of the animal has a registered right of common and—

- (a) premises occupied by the owner or keeper of the animal and in relation to which the registered right of common is customarily exercised; or
- (b) premises occupied by any other person who has a registered right of common over that land and in relation to which the registered right of common is customarily exercised.

(2) The movement of a bovine animal between premises occupied by the owner or keeper of the animal and in relation to which a registered right of common over land is customarily exercised and premises occupied by any other person who has a registered right of common over that land and in relation to which the registered right of common of that other person is customarily exercised.

(3) In this paragraph “registered right of common” means a right to common registered under the Commons Registration Act 1965(a) or a right of common which is exempt from such registration but which is registered, designated, attached, or otherwise recognised, continued or preserved under and in accordance with any of the New Forest Acts 1854, 1949, 1964 and 1970(b), the Epping Forest Acts 1878 and 1880(c) or the City of London (Various Powers) Act 1977(d) or any like right or permission exercised in the Forest of Dean.

Movement within a sole occupancy group

8. The movement of a bovine animal between premises in an approved sole occupancy group, being a set of premises authorised by the Secretary of State as a sole occupancy group as a result of being linked in terms of their control.

Movement for veterinary treatment

9. The movement of a bovine animal to a place for veterinary treatment provided that it is returned direct to its premises of origin after the treatment, or is killed or goes direct to slaughter.

Movement to agricultural shows

10. The movement of a bovine animal to an agricultural show or series of shows provided that it is returned direct to its premises of origin after the show or shows.

(a) 1965 c. 64.
(b) 1854 c. 49 (17 & 18 Vict.); 1949 c.69, 1964 c. 83 and 1970 c. 21.
(c) 1878 c. ccxiii (41 & 42 Vict.) and 1880 c. cxxx (43 & 44 Vict.).
(d) 1977 c. xv.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, which applies in England only, revokes and re-enacts the Tuberculosis (England) Order 2005 (SI 2005/3446). That Order revoked and remade, with alterations, the Tuberculosis (England and Wales) Order 1984 (SI 1984/1943). This Order revokes the 2005 Order with immediate effect and postpones until 27th March 2006 the coming into force of the other measures set out in the 2005 Order. In all other respects this Order reproduces the 2005 Order and incorporates the amendments to that Order which were made by the Tuberculosis(England) Amendment Order 2006 (SI 2006/140).

The principal changes from the 1984 Order are as follows:

A reactor is included within the definition of suspected animal rather than affected animal.

The definition of premises which excluded places of temporary detention such as markets has been deleted. The definition of premises which applies to this Order is in the Animal Health Act 1981. The definitions of carcase and inspector and veterinary inspector are also in the Animal Health Act 1981.

The definition of bovine animal has been changed to include buffalo and bison.

Exclusions in the previous Order in relation to imported animals have been deleted.

Notice of an affected or suspected animal under article 5 must be given to the Divisional Veterinary Manager, and should no longer be given to the local authority or the police.

The duty to notify in relation to carcasses in article 6 applies to all farmed animals, including bovine animals and also to pets.

The forms A and B in schedule 1 of the previous Order have been deleted. Notices under this Order must comply with the general provisions in section 83 of the Animal Health Act 1981 and with the provisions of article 20. Article 20 also provides that licences under the Order may be general or specific.

Article 8 clarifies the power of the Secretary of State to require tuberculosis testing by a certain date. This applies to routine testing of herds according to the testing frequency of the parish in which they are located, and also to additional testing which may be required for different purposes, for example where animals have been moved without pre-movement testing.

Article 8 also clarifies the power of the Secretary of State to impose movement restrictions where there has been a failure to test by a date specified.

Where a skin test has been administered but not yet read, or where a blood test has been taken but the result is not yet known, article 8(5) prohibits the movement of an animal until a negative test result has been obtained.

It is an offence to interfere with any tuberculosis test (article 8(6)).

Article 9 introduces a requirement to skin test bovine animals before they move from one premises to another. All bovine animals must be skin tested for tuberculosis with a negative result not more than 60 days before movement. This requirement does not apply to animals falling within one of the categories listed in article 9(2).

The schedule to the Order sets out movements which are exempt from the requirement for pre-movement testing. In addition, a veterinary inspector retains discretion to authorise certain movements without pre-movement testing (article 11(b)).

Article 10 imposes a duty to retain records of certain tuberculosis tests.

Provisions relating to manure and slurry have been inserted into article 15 (precautions against spread of infection).

Article 19 imposes a duty to notify the Veterinary Laboratories Agency of the presence of *M.bovis* where this has been isolated in any laboratory sample, except where it has been deliberately introduced in the course of research. The address of the Veterinary Laboratories Agency is: TB Diagnostic Laboratory, The Veterinary Laboratories Agency, Woodham Lane, New Haw, Addlestone, Surrey, KT15 3NB.

Breach of the Order is an offence under section 73 of the Animal Health Act 1981 punishable in accordance with section 75 of that Act.

A Regulatory Impact Assessment for the 2005 Order has been prepared and placed in the library of each House of Parliament. Copies can be obtained from TB Division, Department for Environment, Food and Rural Affairs, 1A Page Street, London, SW1P 4PQ. A separate Regulatory Impact Assessment for this Order has not been prepared.

STATUTORY INSTRUMENTS

2006 No. 394

ANIMALS, ENGLAND

ANIMAL HEALTH

The Tuberculosis (England) Order 2006

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