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WELSH STATUTORY INSTRUMENTS

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**2010 No. 1379**

**The Tuberculosis (Wales) Order 2010**

**PART 1**

General

**Title, commencement and application**

1. The title of this Order is the Tuberculosis (Wales) Order 2010; it applies in relation to Wales and comes into force on 25 May 2010.

**Interpretation**

2. In this Order—

“the Act” (“*y Ddeddf*”) means the Animal Health Act 1981;

“affected animal” (“*anifail yr effeithiwyd arno*”) means a bovine animal which is affected with tuberculosis of the udder or is giving tuberculous milk, or which is affected with tuberculosis emaciation, or is excreting or discharging tuberculous material, or is affected with a chronic cough, or shows any other clinical signs of tuberculosis;

“approved disinfectant” (“*diheintydd cymeradwy*”) means a disinfectant that is approved for use against bovine tuberculosis in accordance with the Diseases of Animals (Approved Disinfectants) (Wales) Order 2007(1);

“bovine animal” (“*anifail buchol*”) means domestic cattle of the genus *Bos*, buffalo or bison;

“keeper” (“*ceidwad*”) means any person who owns or is responsible for a bovine animal whether on a permanent or temporary basis, but it does not include a person responsible for a bovine animal solely because the person is transporting it;

“premises” (“*mangre*”) includes—

(a) land or buildings; and

(b) any other place including, in particular, a vehicle, a vessel, an aircraft, or a tent or other moveable structure;

“reactor” (“*adweithydd*”) means a bovine animal that gives rise to a reaction to a relevant test which is consistent with its being affected with tuberculosis;

“relevant test” (“*prawf perthnasol*”) means a skin test or other diagnostic test for tuberculosis;

“skin test” (“*prawf croen*”) means a single intradermal comparative cervical tuberculin test for tuberculosis;

“suspected animal” (“*anifail a amheuir*”) means a bovine animal which is suspected of being affected with tuberculosis and includes an animal that has been in close contact with such an animal; and

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

## **Revocation**

3. The Tuberculosis (Wales) Order 2006(2) is revoked.

## **Amendment of the Brucellosis and Tuberculosis (England and Wales) Compensation Order 1978**

4.—(1) The Brucellosis and Tuberculosis (England and Wales) Compensation Order 1978(3) is amended as follows.

(2) In article 2(1) (interpretation)—

(a) in the definition of “affected animal”—

(i) in sub-paragraph (a)—

(aa) omit “in relation to brucellosis,”; and

(bb) omit “and”; and

(ii) omit sub-paragraph (b); and

(b) in the definition of “reactor”, omit “or tuberculosis”.

(3) In article 3 (compensation for, and ascertainment of value of, bovine animals slaughtered for brucellosis or tuberculosis)—

(a) in the title, omit “or tuberculosis”;

(b) in paragraph (1) , omit “or tuberculosis”; and

(c) omit paragraph (2A).

(4) In article 4(1) (compensation for “control animals”) omit “or tuberculosis”.

## **Savings and transition**

5.—(1) Any notice or licence issued, or approval or consent granted, under the Tuberculosis (England and Wales) Order 1984(4) or the Tuberculosis (Wales) Order 2006 and which has effect at the coming into force of this Order remains in force as if it were a notice or licence issued, or approval or consent granted, under this Order.

(2) This Order applies in relation to a notice served under the Tuberculosis (England and Wales) Order 1984 or the Tuberculosis (Wales) Order 2006 as it applies to a notice served under this Order.

(3) The Brucellosis and Tuberculosis (England and Wales) Compensation Order relating to tuberculosis is not amended by article 4 and continues to apply to any bovine animal that is slaughtered for tuberculosis—

(a) following a notice served before 25 May 2010 under article 8 of the Tuberculosis (Wales) Order 2006;

(b) as a result of a positive or inconclusive skin test read before 25 May 2010; or

(c) as a result of any other relevant test for tuberculosis, the clinical sample for which was taken before 25 May 2010.

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(2) [S.I.2006/1053 \(W.109\)](#).

(3) [S.I.1978/1483](#). Paragraph (2A) of article 3 was inserted by [S.I. 1998/2073](#), article 2. The Order is revoked in relation to England, by [S.I. 2006/168](#).

(4) [S.I. 1984/1943](#).

## PART 2

### Testing and Movement

#### Definition of “disease”

6.—(1) For the purposes of the Act, the definition of “disease” in section 88(1) of the Act (meaning of “disease”) is extended so as to include tuberculosis.

(2) Section 32 of the Act (slaughter in other diseases) applies to tuberculosis.

#### Tests and samples: warrants

7. For the purposes of section 62E(4)(b) of the Act (tests and samples: warrants)—

- (a) the inspector may request permission to enter the premises in advance of the day for which permission is requested; and
- (b) the condition mentioned in that provision is satisfied if the occupier does not indicate, by a date specified in the request, that the occupier gives permission in respect of that request.

#### Notification of disease in bovine animals

8.—(1) Any person who—

- (a) has possession or charge of any bovine animal which the person suspects is or may be an affected animal;
- (b) in the course of the person’s practice as a veterinary surgeon examines a bovine animal which the person suspects is or may be an affected animal; or
- (c) in the course of the person’s duties inspects, for any purpose, a bovine animal which the person suspects is or may be an affected animal,

must notify the Welsh Ministers immediately.

(2) Any person who has possession or charge of any bovine animal which the person suspects is or may be an affected animal must, pending conclusion of the veterinary inquiry under article 10 and the service of any notice under that article, immediately—

- (a) detain that animal on the premises where it then is;
- (b) isolate it as far as practicable from other bovine animals; and
- (c) adopt precautions with respect to milk produced by that animal as if a notice under article 10 had already been served.

#### Notification of disease in carcasses

9.—(1) Any person who—

- (a) has possession or charge of any carcass that is affected with or suspected of being affected with tuberculosis;
- (b) in the course of the person’s practice as a veterinary surgeon, examines a carcass that is affected with or suspected of being affected with tuberculosis; or
- (c) in the course of the person’s duties inspects, for any purpose, a carcass that is affected with or suspected of being affected with tuberculosis,

must notify the Welsh Ministers immediately.

(2) A person who has possession or charge of a carcass mentioned in paragraph (1) must detain it on the premises where it then is until it has been examined by a veterinary inspector.

**Veterinary inquiry as to the existence of disease**

10.—(1) Where a veterinary inspector reasonably believes an affected animal or a suspected animal (other than a reactor) or a carcase of a bovine animal that is affected with or suspected of being affected with tuberculosis is present on any premises, the veterinary inspector must, 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) A veterinary inspector may, for the purposes of this article, 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) Where a veterinary inspector has examined a bovine animal and is of the opinion that it is an affected animal or suspected animal, the veterinary inspector must serve a notice on the keeper of that bovine 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 sterilised and that any utensil with which such milk has been in contact before it is so treated is 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.

**Veterinary improvement notice**

11.—(1) A veterinary inspector may serve a notice (a “veterinary improvement notice”) (*“hysbysiad gwella milfeddygol”*) on the keeper of a bovine animal requiring the keeper, by a date specified in the notice, to do things or to refrain from doing things for the purpose of preventing the spread of disease and, in particular, may impose the requirements mentioned in paragraph (2).

(2) The requirements that may be imposed by means of a veterinary improvement notice include—

- (a) erecting fences (including gates and stiles);
- (b) adopting effective methods of excluding groups of animals from specified parts of the premises;
- (c) protecting silage, feed storage and feeding areas from wildlife including birds;
- (d) taking reasonable steps to ensure that people who enter the keeper’s land take reasonable precautions against the spread of disease.

**Tuberculosis testing**

12.—(1) The Welsh Ministers may serve on the keeper of a bovine animal a notice (a “test notice”) requiring the keeper to have any such animal tested for tuberculosis with a relevant test by a date specified in the notice.

(2) The keeper of any bovine animal must comply with all reasonable requirements of an inspector with a view to facilitating—

- (a) the identification and examination of that animal by that inspector;
- (b) the application to it, or the reading, of any relevant test;
- (c) the valuation of it in a case where the Welsh Ministers intend to cause it to be slaughtered under section 32 of the Act in its application to tuberculosis; or
- (d) the removal of that animal for slaughter,

and in particular must arrange at the keeper's own expense for the collection, penning and securing of any such animal if so required.

(3) Where a relevant test has been applied to a bovine animal, no person may move that animal from the premises or the part of 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 and are negative.

(4) Without prejudice to article 16, where the keeper has failed to have an animal tested as required by a test notice, the Welsh Ministers may, in relation to the premises where the animal is kept, by notice served on the keeper, 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 those premises, as are specified in the notice, subject to movement that is allowed under the authority of a licence issued by an inspector.

(5) Without prejudice to any proceedings for an offence under section 73 of the Act by virtue of this Order, where the keeper has failed to have an animal tested as required by a test notice, the Welsh Ministers may take or cause to be taken all the steps that may be necessary to facilitate the examination, testing, valuation and removal of that animal and the Welsh Ministers may recover the amount of any expenses that are reasonably incurred by them from the keeper.

(6) Where—

- (a) the keeper has failed to have an animal tested as required by a test notice; and
- (b) for the reasons set out in paragraph (7) the animal has not been tested in accordance with paragraph (5),

the animal must be treated as being affected with tuberculosis for the purposes of section 32 of the Act.

(7) The reasons mentioned in paragraph (6) are those of practicability and include difficulties in gathering the animal safely due to its wildness or the nature of the terrain on which it is kept.

### **Pre-Movement Testing**

**13.**—(1) No person may move a bovine animal from any premises unless—

- (a) a skin test has been applied to it no more than 60 days before the date of movement; and
- (b) the results of the test have been read by an inspector and are negative.

(2) Paragraph (1) does not apply to—

- (a) bovine animals that are less than 6 weeks old at the date of the movement;
- (b) 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;
- (c) any movements specified in a direction issued by the Welsh Ministers; and
- (d) any movement that is approved by the Welsh Ministers.

(3) For the purposes of paragraph (1)(a), the 60 day period begins on the day after tuberculin is injected into the animal.

### **Tuberculosis test records**

**14.**—(1) Where a skin test has been applied to a bovine animal, the Welsh Ministers must, as soon as practicable after the results of the test have been read by an inspector, give the keeper of that animal a written record of the results.

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

(3) The keeper must—

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

### **Prohibitions**

**15.**—(1) No person may vaccinate a bovine animal against tuberculosis without the written consent of the Welsh Ministers.

(2) No person may treat a bovine animal for tuberculosis without the written consent of the Welsh Ministers.

(3) No person may perform a test for tuberculosis on a bovine animal except with the written consent of the Welsh Ministers and a person to whom any such consent is given must report the results immediately to the Welsh Ministers.

(4) No person may interfere with or obstruct the application or the reading of a relevant test.

### **Isolation and prohibition on movement of animals**

**16.** 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—

- (a) require such bovine animals as are specified in the notice to be isolated from other animals to the extent specified in the notice; and
- (b) 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**

**17.**—(1) Where the Welsh Ministers intend to cause a bovine animal to be slaughtered under section 32 of the Act in its application to tuberculosis, an inspector must serve a notice on the keeper of the animal informing the keeper of the intended slaughter and requiring the keeper to detain the animal pending such slaughter, or its 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 may move the animal, other than to slaughter, except under the authority of a licence issued by an inspector.

### **Precautions against spread of infection**

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

- (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 the 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 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 are not used by any bovine animal on the premises, or by such other animal or animals as may be specified;
- (g) to cleanse and disinfect with an approved disinfectant such part or parts of the premises, within such time and in such manner, as may be specified in the notice;
- (h) to cleanse and disinfect with an approved disinfectant 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; and
- (i) to take such other action as the veterinary inspector considers appropriate.

(2) Where the keeper fails to comply with the requirements of the notice, the Welsh Ministers 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 them is recoverable from the keeper.

#### **Suspected animals in markets, shows etc**

**19.**—(1) 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 an affected animal, a suspected animal or has been exposed to infection by tuberculosis, the veterinary inspector may—

- (a) by notice served on the keeper of the animal require that animal to be removed from those premises and 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; and
- (b) by notice served on the person in charge of the premises—
  - (i) require that person to ensure that any part or parts of the premises specified in the notice are not used by any other bovine animal for such period as may be specified in the notice; and
  - (ii) require that person within such time and in such manner as may be specified in the notice—
    - (aa) to cleanse and disinfect with an approved disinfectant such part or parts of the premises as may be specified in the notice; and
    - (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) the keeper must immediately put it into isolation and must not move it from the premises again except under the authority of a licence issued by an inspector.

(3) If any person on whom a notice is served under paragraph (1)(b) fails to comply with the requirements of the notice, the Welsh Ministers 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 them is recoverable by them from the person in default.

#### **Control of infection from other animals**

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

- (a) require the occupier 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) In paragraph (1), “animal” (“*anifail*”) means any kind of mammal except a bovine animal or man.

#### **Marking of bovine animals**

**21.**—(1) If directed to do so by an inspector, the keeper of bovine animals must mark such animals in the manner required by the inspector.

- (2) The inspector may mark bovine animals.
- (3) No person may change or interfere with any mark that has been applied under this article.

#### **Isolation of *M. bovis* in a laboratory**

**22.**—(1) Where the presence of the organism *M. bovis* is identified by a laboratory examination of a sample taken from any mammal (except man) or from the carcass, products or surroundings of any such mammal, the person in charge of that laboratory must immediately notify the Veterinary Laboratories Agency.

(2) But there is no such duty to notify 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, licences and approvals**

**23.**—(1) Any notice, licence or approval issued or granted under this Order must be in writing.

(2) Any licence issued under this Order may be general or specific and may be made subject to conditions.

(3) Any approval granted under this Order may be made subject to conditions.

(4) A notice, licence or approval issued or granted under this Order may be amended, suspended or revoked in writing at any time.

(5) Any person to whom any requirement or condition in a notice, licence or approval issued or granted under this Order applies must comply with the requirement or condition.

#### **Production of licences**

**24.** Where a bovine animal is moved under the authority of a licence (other than a general licence) issued under this Order, the person in charge of the animal being moved must, on demand made under this Order by an inspector, give the person’s name and address and must produce the licence and allow a copy of it to be taken.



## **Enforcement**

**25.**—(1) This Order must be enforced by the local authority.

(2) The Welsh Ministers may direct, in relation to any particular case or class of case, that they will enforce this Order instead of the local authority.

## **PART 3**

### **Compensation**

#### **Compensation for bovine animals slaughtered for tuberculosis**

**26.**—(1) Where—

- (a) the Welsh Ministers cause a bovine animal to be slaughtered under the powers conferred by section 32(1) of the Act (slaughter in other diseases) in its application to tuberculosis; and
- (b) that animal is identified by means of eartags and a cattle passport in accordance with the requirements of the Cattle Identification (Wales) Regulations 2007<sup>(5)</sup>,

the compensation payable under section 32(3) in respect of that animal is to be its value as calculated in accordance with the Schedule.

(2) Regulation 3 of the Agricultural Subsidies and Grants Schemes (Appeals) (Wales) Regulations 2006<sup>(6)</sup> (provision of appeals procedure) applies to the determination of the appropriate figure as if it was a relevant determination.

(3) In paragraph (2) the “appropriate figure” (“*fffigur priodol*”) is the figure provided in respect of “B” by one of paragraphs 3 to 6 of the Schedule.

30 April 2010

*Elin Jones*  
Minister for Rural Affairs, one of the Welsh  
Ministers

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<sup>(5)</sup> S.I. 2007/842 (W. 74).

<sup>(6)</sup> S.I. 2006/3342 (W.303).