

Animal Health and Welfare (Scotland) Act 2006 2006 asp 11

PART 1

ANIMAL HEALTH

Prevention of the spread of disease

4 Biosecurity codes

After section 6B of the 1981 Act there is inserted—

“6C Biosecurity codes: Scotland

- (1) The Scottish Ministers may make an order containing a code (referred to in this section and section 6D as a “biosecurity code”) which makes provision for the taking of, and in relation to, the measures specified in subsection (2).
- (2) Those are measures (“biosecurity measures”) for preventing—
 - (a) diseases of animals;
 - (b) the spread of causative agents of diseases of animals—
 - (i) among animals, birds or amphibians;
 - (ii) between any of those categories of creature and another of those categories; or
 - (iii) from any of those categories of creature to humans.
- (3) In subsection (2)(b), “causative agent”, in relation to a disease, includes any virus, bacterium and any other organism or infectious substance which may cause or transmit the disease.
- (4) A biosecurity code may relate solely to one, or more than one—
 - (a) kind of creature; or
 - (b) disease.

- (5) A biosecurity code may include guidance as to the best practicable means of taking biosecurity measures.
- (6) A biosecurity code may—
- (a) prescribe general requirements to which persons to whom the code applies are subject;
 - (b) prescribe particular requirements to which such persons are, in such circumstances as are specified in the code, subject; and
 - (c) specify circumstances in which any person is to be regarded for the purposes of this section as complying with, or (as the case may be) not complying with, any requirements prescribed under paragraphs (a) or (b).
- (7) A biosecurity code may make different provision for different cases or classes of case.
- (8) A biosecurity code applies, to the extent provided for in the code, to any person who owns, keeps or is in charge of any creature of a kind to which the code relates.
- (9) A person must, to the extent to which a biosecurity code applies to the person, comply with the code.
- (10) A person who is subject to a requirement prescribed under subsection (6)(a) or (b) commits an offence if, without lawful authority or excuse (proof of which lies on the person), that person fails to comply with the requirement.
- (11) Before making an order under subsection (1), the Scottish Ministers must consult such persons as they consider appropriate about the proposed biosecurity code.
- (12) A statutory instrument containing an order under subsection (1) is not made unless a draft of the instrument has been laid before, and approved by a resolution of, the Scottish Parliament.
- (13) In sub-paragraph (i) of paragraph (b) of subsection (2), the reference to animals means any kind of mammal (except man).
- (14) In this section and section 6D(1)(b), “disease” is not restricted by its definition in this Act.

6D Emergency biosecurity orders: Scotland

- (1) Where the Scottish Ministers are of the opinion that there exists—
- (a) an outbreak of a disease specified in Schedule 2B to this Act; or
 - (b) some other emergency relating to a disease of animals,
- subsections (11) and (12) of section 6C do not apply in relation to the making of an order under subsection (1) of that section containing a biosecurity code relating to the outbreak or, as the case may be, the other emergency.
- (2) Where subsection (1) applies, an order made accordingly (an “emergency order”)—
- (a) is to be laid before the Scottish Parliament; and

- (b) ceases to have effect at the expiry of a period of 28 days beginning with the date on which it was made unless, before the expiry of that period, the order has been approved by a resolution of the Parliament.
- (3) However, paragraph (b) of subsection (2) does not apply in relation to an order which—
 - (a) revokes (wholly or partly) an emergency order; and
 - (b) does nothing else, or nothing else except make provision incidental or supplementary to the revocation.
- (4) In reckoning for the purposes of subsection (2)(b) any period of 28 days, no account is to be taken of any period during which the Scottish Parliament is—
 - (a) dissolved; or
 - (b) in recess for more than 4 days.
- (5) Subsection (2)(b) is without prejudice to anything previously done by reference to an emergency order or to the making of a new emergency order.
- (6) An emergency order must include a description of the emergency in relation to which the order is made.”.

5 Tests and samples

After section 6D (inserted by section 4 of this Act) of the 1981 Act there is inserted—

“6E Tests and samples: Scotland

- (1) An inspector may at any time enter any premises in Scotland for the purpose of ascertaining (any or all)—
 - (a) whether—
 - (i) biological indicators of any disease of animals;
 - (ii) biological indicators of any causative agent of a disease of animals,
exist in animals, birds or amphibians on the premises;
 - (b) whether any animals, birds or amphibians on the premises or which were kept there at any time are, or were at the time they were so kept, infected with a disease of animals;
 - (c) whether any causative agent of a disease of animals is present on the premises.
- (2) The inspector may take such samples (including samples from any animals, birds or amphibians on the premises) and carry out such tests as the inspector thinks are necessary for a purpose mentioned in subsection (1).
- (3) In subsections (1) and (2), the references to animals in which biological indicators exist, infected with a disease or from which samples may be taken means any kind of mammal (except man).
- (4) In this section—
 - “biological indicator”—
 - (a) in relation to a disease, includes evidence of any form of reaction to the disease;

Status: This is the original version (as it was originally enacted).

(b) in relation to a causative agent, includes—

- (i) anti-bodies in reaction to the causative agent;
- (ii) evidence of any other form of reaction to the causative agent;

“causative agent”, in relation to a disease, includes any virus, bacterium and any other organism or infectious substance which may cause or transmit the disease;

“disease” is not restricted by its definition in this Act;

“inspector” means—

- (a) a person appointed as an inspector for the purposes of this Act by the Scottish Ministers; or
- (b) a person authorised by the Scottish Ministers for those purposes;

“premises” includes—

- (a) any land or building; or
- (b) any other place, in particular—
 - (i) a vehicle or vessel; or
 - (ii) a tent or moveable structure.

6F Samples: further testing

- (1) Where a sample from any animal, bird or amphibian has been taken—
 - (a) under any enactment; and
 - (b) in relation to the monitoring, control or prevention of any disease of animals,

the Scottish Ministers (or a person authorised by them) may carry out such tests using the sample as they think are necessary or expedient for the purposes of the monitoring, control or prevention of any other disease of animals.
- (2) Except in the circumstances described in subsection (3), the power conferred by subsection (1) is not exercisable unless the sample has previously been used for a test authorised under the relevant enactment.
- (3) Those circumstances are—
 - (a) where the Scottish Ministers are of the opinion that there exists an emergency in relation to a disease of animals; and
 - (b) the tests to be carried out under subsection (1) are in connection with the emergency.
- (4) A person who possesses a sample required for the carrying out of a test under subsection (1) must give the sample to the Scottish Ministers (or a person authorised by them) by such time as they may direct.
- (5) In subsection (1), the first reference to an animal means any kind of mammal (except man).
- (6) In this section—

“disease” is not restricted by its definition in this Act;

“enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.”

6 **Animal gatherings**

After section 8 of the 1981 Act there is inserted—

“8A Animal gatherings: Scotland

- (1) The Scottish Ministers may by order make provision for or in connection with the licensing (by them or by other persons on their behalf) of the holding of animal gatherings.
- (2) An order under subsection (1) must be with a view to the prevention of the spread of disease.
- (3) In this section, an “animal gathering” means an occasion at which animals or birds (or both) are brought together for any purpose.
- (4) But, for the purposes of subsection (3), an occasion is not an animal gathering if—
 - (a) all the animals or birds involved are owned by the same person; or
 - (b) the occasion—
 - (i) takes place on land in respect of which more than one person has a right of use; and
 - (ii) involves animals or birds all of which are owned by persons who have a right of use of the land.
- (5) An order under subsection (1) may, in particular, include provision as to—
 - (a) the procedure to be followed in relation to an application for a licence;
 - (b) any considerations to be taken into account in determining an application;
 - (c) the duration and renewal of a licence;
 - (d) conditions that must or may be imposed on granting or renewing a licence;
 - (e) circumstances in which a licence (or any of the conditions imposed in relation to the licence) must or may be revoked or suspended;
 - (f) requirements for notification of any granting, renewal, revocation, suspension or variation of a licence;
 - (g) appeals in connection with licences.
- (6) An order under subsection (1) may, in particular, also include provision as to the inspection, for the purpose of ensuring compliance with any condition of a licence, of premises where animal gatherings may take, or are taking or have taken, place.
- (7) Conditions under subsection (5)(d) may, in particular, relate to measures for the prevention of the spread of disease.
- (8) A person who holds a licence in accordance with an order made under subsection (1) commits an offence if, without excuse (proof of which lies on the person), that person contravenes any condition of the licence.
- (9) A statutory instrument containing an order under subsection (1) is subject to annulment in pursuance of a resolution of the Scottish Parliament.

- (10) An order under subsection (1) may make different provision for different cases or classes of case.
- (11) Before making an order under subsection (1), the Scottish Ministers must consult—
 - (a) such persons appearing to them to represent relevant interests; and
 - (b) such other persons,
 as they consider appropriate.
- (12) In this section, “premises” includes—
 - (a) any land or building; or
 - (b) any other place, in particular—
 - (i) a vehicle or vessel; or
 - (ii) a tent or moveable structure.”.

7 Treatment

- (1) In section 16 (treatment after exposure to infection) of the 1981 Act—
 - (a) subsection (1) is repealed,
 - (b) after that subsection there is inserted—
 - “(1A) For the purpose of preventing the spread of diseases of animals, the Scottish Ministers may, if they think fit, cause to be treated with serum or vaccine, or with both serum and vaccine, any animal or bird.
 - (1B) The animals which may be treated under subsection (1A) are any kind of mammal (except man).
 - (1C) In subsection (1A), “disease” is not restricted by its definition in this Act.”.
- (2) In subsection (2) of that section—
 - (a) for the words “officer of the Minister” there is substituted “inspector”, and
 - (b) for the words from “land” to the end there is substituted “premises”.
- (3) After that subsection there is added—
 - “(3) In this section—
 - “inspector” means—
 - (a) a person appointed as an inspector for the purposes of this Act by the Scottish Ministers; or
 - (b) a person authorised by the Scottish Ministers for those purposes;
 - “premises” includes—
 - (a) any land or building; or
 - (b) any other place, in particular—
 - (i) a vehicle or vessel; or
 - (ii) a tent or moveable structure.”.

8 Seizure of carcasses etc.

After section 36 of the 1981 Act there is inserted—

“36ZA Seizure of carcasses etc.: further provision for Scotland

- (1) The Scottish Ministers may by order make provision for—
 - (a) the seizure of anything (whether animate or inanimate) which appears to them might be capable of carrying or transmitting any disease to which this subsection applies;
 - (b) the destruction, burial, disposal or treatment of anything seized under the order; and
 - (c) regulating the matters mentioned in paragraphs (a) and (b).
- (2) Subsection (1) does not authorise provision for the seizure of a live animal, bird or amphibian; but an order under that subsection may provide for the seizure of carcasses and of anything obtained from or produced by an animal, bird or amphibian.
- (3) Subsection (1) applies to the diseases in the case of which any power of slaughter is exercisable under or by virtue of section 16B, Part 2B or Schedule 3A.
- (4) A person commits an offence if, without lawful authority or excuse (proof of which lies on the person), that person throws or places, or causes or suffers to be thrown or placed, into—
 - (a) any river, stream, canal, navigation or other water; or
 - (b) the sea within 4.8 kilometres of the shore,the carcass of, or anything obtained from or produced by, an animal, bird or amphibian which has been slaughtered in the exercise of any power conferred by or under section 16B, Part 2B or Schedule 3A.
- (5) In this section, the references to an animal mean any kind of mammal (except man).

36ZB Compensation for seizure

- (1) The Scottish Ministers must pay compensation for anything seized under an order made under section 36ZA(1).
- (2) But subsection (1) does not apply to—
 - (a) carcasses seized; or
 - (b) other things seized which are obtained from or produced by creatures.
- (3) The Scottish Ministers may pay compensation for—
 - (a) carcasses seized under an order made under section 36ZA(1);
 - (b) other things seized under such an order which are obtained from or produced by creatures,of such description as the Scottish Ministers may specify by order.
- (4) The compensation payable under subsection (1) or (3) for anything seized shall be its value at the time of seizure.
- (5) Where anything destroyed, buried or disposed of under an order made under paragraph (e) of section 23 could have been seized under an order made under

section 36ZA(1), compensation (if any) is payable under subsections (1) or (3) as if the thing had been so seized at the time of destruction, burial or disposal.

- (6) The Scottish Ministers may make such orders as they think fit for—
- (a) prescribing how the value of anything seized under section 36ZA(1) is to be ascertained;
 - (b) regulating applications for, and the mode of payment of, any compensation payable by virtue of this section.”.

9 Specified diseases

- (1) After section 28H (inserted by section 10 of this Act) of the 1981 Act there is inserted—

“28I Specified diseases: Scotland

- (1) Schedule 2B to this Act has effect as to the specification of certain diseases of animals.
 - (2) The Scottish Ministers may by order modify Schedule 2B.
 - (3) An order made under subsection (2)—
 - (a) is to be laid before the Scottish Parliament; and
 - (b) ceases to have effect at the expiry of a period of 28 days beginning with the date on which it was made unless, before the expiry of that period, the order has been approved by a resolution of the Parliament.
 - (4) However, paragraph (b) of subsection (3) does not apply in relation to an order which—
 - (a) revokes (wholly or partly) a previous order; and
 - (b) does nothing else, or nothing else except make provision incidental or supplementary to the revocation.
 - (5) In reckoning for the purposes of subsection (3)(b) any period of 28 days, no account is to be taken of any period during which the Scottish Parliament is—
 - (a) dissolved; or
 - (b) in recess for more than 4 days.
 - (6) Subsection (3)(b) is without prejudice to anything previously done by reference to a modification made by an order under subsection (2) or to the making of a new order under that subsection.
 - (7) An order under subsection (2) must include a statement of the reasons for making the order.”.
- (2) After Schedule 2A of that Act there is inserted—

“SCHEDULE 2B

(introduced by section 28I)

SPECIFIED DISEASES: SCOTLAND

African horse sickness

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