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SCOTTISH STATUTORY INSTRUMENTS

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**2009 No. 445**

**ANIMALS**

**The Tuberculosis (Scotland) Amendment Order 2009**

*Made* - - - - *17th December 2009*

*Coming into force* - - *28th February 2010*

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 1 and 8(1) of the Animal Health Act 1981(1) and all other powers enabling them to do so.

**Citation and commencement**

1. This Order may be cited as the Tuberculosis (Scotland) Amendment Order 2009 and comes into force on 28th February 2010.

**Amendments to the Tuberculosis (Scotland) Order 2007**

2.—(1) The Tuberculosis (Scotland) Order 2007(2) is amended in accordance with the following paragraphs.

(2) In article 2 (interpretation), insert in the appropriate places, according to alphabetical order—

““cross-border holding” means premises which are partly situated in Scotland and partly situated in England;” and

““low incidence area” means an area in England or Wales where bovine animals are required to be subject to routine tuberculin testing on a 3 or 4 yearly basis, in accordance with the requirements of Council Directive [64/432/EEC](#) on animal health problems affecting intra-Community trade in bovine animals and swine(3);”.

(3) In article 8 (pre movement testing), for paragraph (4), substitute—

“(4) The occupier of any premises in Scotland shall not allow to enter those premises any bovine animal from premises in a low incidence area unless that animal has had applied to it, in the low incidence area, a diagnostic test for tuberculosis no more than 60 days before the date of its movement from the premises in a low incidence area.

(5) Paragraph (4) shall not apply to any bovine animal which was born and kept at all times on premises in a low incidence area.

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(1) [1981 c.22](#). The functions of the Secretary of State insofar as within devolved competence were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act [1998 \(c.46\)](#).

(2) [S.S.I. 2007/147](#).

(3) O.J. No. L 121, 29.7.1964, p.1977; last amended by Commission Decision [2008/984/EC](#) (O.J. No. L 352, 31.12.2008, p.38).

(6) For the purposes of paragraph (5), a bovine animal which was born and kept at all times on premises in a low incidence area includes a bovine animal which has been moved from premises in a low incidence area to an agricultural show or a market in a high incidence area.

(7) Where a bovine animal on any premises in Scotland which has been moved from any premises in a low incidence area has not had applied to it a diagnostic test for tuberculosis, in the low incidence area, no more than 60 days before the date of its movement from the premises in the low incidence area, the keeper of the animal shall ensure that test is applied to the animal as soon as reasonably practicable after it is known to that person that a test was not applied before the animal was moved from the low incidence area.

(8) This article shall not apply to any bovine animal under 42 days of age at the time it is moved to Scotland.”.

(4) After article 9 (post movement testing), insert—

**“Cross-border holdings**

**9A.** Articles 8 and 9 do not apply to movements of animals within a cross-border holding where the movement is from that part of the holding situated in England to that part of the holding situated in Scotland or vice versa.”.

(5) In article 10 (application of test), for “8(1) or (3)”, substitute “8(1), (3), (4) or (7)”.

St Andrew’s House,Edinburgh  
17th December 2009

*RICHARD LOCHHEAD*  
A member of the Scottish Executive

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order amends the Tuberculosis (Scotland) Order 2007 (“the principal Order”). Scotland was recognised as officially tuberculosis free (“OTF”) in terms of Directive [64/432/EEC](#), Annex A, Section 4 on 8 September 2009. Additional pre movement testing of bovine animals from England and Wales is required to protect Scotland’s OTF status.

Article 2(2) inserts definitions of “cross-border holding” and “low incidence area” in the principal Order.

Article 2(3) inserts provisions in the principal Order to provide for the testing of animals before they move from areas in England or Wales where there is a low incidence of tuberculosis, unless such animals were born and kept at all times on premises in a low incidence area.

Article 2(4) inserts a new provision in the principal Order disapplying pre and post movement testing in relation to movements of animals from one part of a cross-border holding to another.

Article 2(5) inserts references to tests applied under article 8(4) and (7) of the principal Order to ensure that the keeper arranges for a veterinary inspector to apply the test and for the keeper to meet the cost of the test.

A regulatory impact assessment has not been prepared as this instrument has no impact on the costs of business.