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SCOTTISH STATUTORY INSTRUMENTS

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**2023 No. 93**

**ANIMALS**

**The Tuberculosis (Scotland) Order 2023**

<i>Made</i>	- - - -	<i>21st March 2023</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>23rd March 2023</i>
<i>Coming into force</i>	- -	<i>18th May 2023</i>

The Scottish Ministers, in exercise of the powers conferred by sections 1, 7(1), 8(1), 15(4), 25, 28, 32(2) and (3), 34(7), 83(2), 83A(6), 87(2) and 88(2) of the Animal Health Act 1981<sup>(1)</sup> and all other powers enabling them to do so, make the following Order:

**PART 1**

**Introductory provisions**

**Citation, commencement and extent**

1.—(1) This Order may be cited as the Tuberculosis (Scotland) Order 2023 and comes into force on 18 May 2023.

(2) This Order extends to Scotland only.

**Interpretation**

2.—(1) In this Order—

“the Act” means the Animal Health Act 1981,

“affected animal” means a bovine animal which is a reactor, or which is—

- (a) affected with tuberculosis of the udder,
- (b) giving tuberculous milk,
- (c) affected with tuberculous emaciation,

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(1) 1981 c. 22. The functions of the Secretary of State in so far as within devolved competence were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46). See section 86 of the Animal Health Act 1981 for the exercise of functions in relation to tuberculosis. The requirement to obtain Treasury consent in section 32(3) of the Animal Health Act 1981 was removed by section 55 of the Scotland Act 1998. Section 83A of the Animal Health Act 1981 was inserted by section 15 of the Animal Health and Welfare (Scotland) Act 2006 (asp 11).

- (d) excreting or discharging tuberculous material,
- (e) affected with a chronic cough,
- (f) showing any other clinical signs of tuberculosis,

“approved veterinary surgeon” means a veterinary surgeon approved in accordance with article 3,

“bovine animal” means domestic cattle of the genus *Bos*, *Bubalis bubalis* or *Bison bison*,

“inconclusive reactor” means a bovine animal whose results from a diagnostic test for tuberculosis reveal a non-negative reading, but which is not a reactor,

“isolation” means an affected animal or suspected animal is kept on premises or part of premises where—

- (a) no space, drainage or manure storage is shared with bovine animals (other than other affected or suspected bovine animals) or other animals kept on the premises,
- (b) no nose-to-nose contact is possible with bovine animals (other than other affected or suspected bovine animals) kept on the premises or adjoining premises, or other animals kept on the premises or adjoining premises, and
- (c) where kept inside a building, the affected animals or suspected animals are also separated by an airtight barrier from bovine animals (other than other affected or suspected bovine animals) and other animals kept inside the building,

“market value” means the price which might reasonably be obtained for the bovine animal at the time of valuation from a purchaser in the open market if the animal is not an affected animal or a suspected animal,

“milk” includes cream and separated or skimmed milk,

“premises” includes land, with or without buildings,

“reactor” means a bovine animal that produces a test result consistent with its being affected with tuberculosis when a diagnostic test for that disease is applied to it,

“suspected animal” means a bovine animal suspected of being affected with tuberculosis, and includes an inconclusive reactor,

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

“veterinary surgeon” means a veterinary surgeon or veterinary practitioner registered under the Veterinary Surgeons Act 1966(2).

(2) A reference in this Order to anything done in writing or produced in written form includes a reference to an electronic communication, as defined in section 15(1) of the Electronic Communications Act 2000(3) which has been recorded and is consequently capable of being reproduced.

### **Approval of veterinary surgeons**

3.—(1) The Scottish Ministers may approve any veterinary surgeon whom they consider competent to apply and read diagnostic tests for tuberculosis.

(2) For the purpose of deciding whether to grant an approval under this article, the Scottish Ministers may require a veterinary surgeon to complete such training as they consider necessary.

(3) The Scottish Ministers may by notice given to the veterinary surgeon revoke an approval granted under this article, giving reasons for the revocation.

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(2) 1966 c. 36.

(3) 2000 c. 7; section 15(1) was amended by the Communications Act 2003 (c. 21), schedule 17, paragraph 158.

### **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 (meaning of “disease”) is extended to include tuberculosis and section 32 of the Act (slaughter in other diseases) applies to that disease.

## **PART 2**

### **Notification**

#### **Notification of disease in bovine animals**

5.—(1) A person who has possession of or is in charge of an affected animal (other than a reactor) or a suspected animal must immediately—

- (a) notify an authorised veterinary inspector of that fact,
- (b) pending conclusion of the veterinary inquiry under article 7 and the service of any notice under that article—
  - (i) detain the animal on the premises where it then is,
  - (ii) as far as reasonably practicable, keep the animal in isolation, and
  - (iii) adopt precautions with respect to milk produced by the animal as if a notice under article 7 had already been served.

(2) A veterinary surgeon who examines an affected animal (other than a reactor) or a suspected animal in the course of practice as a veterinary surgeon must immediately notify an authorised veterinary inspector of that fact.

(3) In this article and in article 6, “authorised veterinary inspector” means a veterinary inspector authorised by the Scottish Ministers to receive information about animals and carcasses affected or suspected of being affected with specified diseases.

#### **Notification of disease in carcasses**

6.—(1) A person who—

- (a) has possession of or is in charge of a carcass affected with or suspected of being affected with tuberculosis,
- (b) in the course of that person’s practice as a veterinary surgeon, examines such a carcass, or
- (c) in the course of carrying out duties under the Food Hygiene (Scotland) Regulations 2006(4) or when inspecting meat for any other purpose, inspects such a carcass,

must immediately give notice of that fact to an authorised veterinary inspector.

(2) A person who has possession of or is in charge of a carcass to which paragraph (1) applies must detain it, or so much of it as is affected with or suspected of being affected with tuberculosis, on the premises where it then is until it has been examined by a veterinary inspector.

(3) In this article and in article 7, “carcass” means the carcass of a bovine animal or other farmed or pet mammal.

### **Veterinary inquiry**

7.—(1) Where on receipt of information provided under articles 5 or 6 or otherwise, a veterinary inspector has reason to believe that there is on any premises an affected animal (other than a reactor), a suspected animal or a carcass affected with or suspected of being affected with tuberculosis, the inspector must, as soon as reasonably practicable, take such steps as may be necessary to establish whether the animal or carcass is affected or suspected of being affected with tuberculosis.

(2) A veterinary inspector who is of the opinion that a bovine animal is an affected animal or a suspected animal must serve a notice on the keeper of the animal requiring that person to—

- (a) detain the animal on the premises where it then is in accordance with the requirements of the notice and keep it in isolation,
- (b) where appropriate, take steps to ensure that milk produced by the animal is not mixed with other milk and is boiled or otherwise sterilised and that any utensil with which the animal's milk has been in contact before being sterilised is thoroughly cleansed and scalded with steam or boiling water before being 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 a veterinary inspector.

(3) A notice served under this article remains in force until the notice is withdrawn by a further notice served by a veterinary inspector.

## **PART 3**

### **Testing of bovine animals**

#### **Meaning of premises**

8. For the purposes of article 9 and 10, “premises” does not include any assembly centre, collection centre, agricultural show, market or slaughterhouse.

#### **Pre-movement testing**

9.—(1) The keeper of any bovine animal on any premises in a high incidence area in Scotland must not allow that animal to be moved from the premises unless a diagnostic test for tuberculosis has been applied to it no more than 30 days before the date of its movement from the premises.

(2) The occupier of any premises in Scotland must not allow to enter those premises any bovine animal from premises in a high incidence area unless that animal has had applied to it a diagnostic test for tuberculosis no more than 30 days before the date of its movement from the premises in a high incidence area.

(3) Where a bovine animal on any premises in Scotland which has been moved from any premises in a high incidence area has not had applied to it a diagnostic test for tuberculosis no more than 30 days before the date of its movement from the premises in a high incidence area, the keeper of the animal must—

- (a) 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 high incidence area, and
- (b) where the result of the test carried out under paragraph (a) is read by and to the satisfaction of an approved veterinary surgeon, ensure that a second test is applied to the animal no fewer than 60 days and no more than 120 days from the date of application of the first test.

(4) The occupier of any premises in Scotland must not allow to enter those premises any bovine animal from premises in a low incidence area unless that animal has had applied to it a diagnostic test for tuberculosis no more than 30 days before the date of its movement from the premises in a low incidence area.

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

(6) For the purposes of paragraph (5), a bovine animal born and kept at all times on premises in a low incidence area includes a bovine animal 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 no more than 30 days before the date of its movement from the premises in the low incidence area, the keeper of the animal must 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 does not apply to any bovine animal under 42 days of age at the time it is moved to Scotland.

(9) For the purposes of paragraphs (1), (2) and (4), the application of a short interval test is not to be treated as meeting the requirement for the application of a diagnostic test for tuberculosis before the date of movement.

(10) In paragraph (9), “short interval test” means a diagnostic test for tuberculosis applied to a bovine animal for the purpose of ascertaining whether movement restrictions may be lifted from a premises where the presence of tuberculosis has been confirmed.

(11) In this article and in article 10, “high incidence area” means an area in Great Britain where bovine animals are subject to routine tuberculin testing at intervals of no more than two years.

(12) In this article, “low incidence area” means an area in England or Wales where bovine animals are subject to routine tuberculin testing at intervals of more than two years.

### **Post-movement testing**

**10.**—(1) Where a bovine animal is moved to premises in Scotland (in this article “the receiving premises”) from premises in a high incidence area, the keeper of the bovine animal must ensure that a diagnostic test for tuberculosis is applied to it no fewer than 60 days and no more than 120 days after the date on which it first arrives at the receiving premises.

(2) Unless paragraph (3) applies, the keeper of a bovine animal must not allow the animal to be moved from the receiving premises unless a diagnostic test has been applied to it in accordance with paragraph (1) and the results of the test as read by an inspector or approved veterinary surgeon are negative for tuberculosis.

(3) This paragraph applies where the bovine animal is moved—

- (a) directly to slaughter within 120 days of the animal’s first arrival at the receiving premises,
- (b) solely for the purpose of veterinary treatment, provided that after the treatment the animal is returned directly to the receiving premises or is killed or goes directly to slaughter, or
- (c) under the authority of a movement licence issued by a veterinary inspector.

### **Premises situated partly in Scotland and partly in England**

**11.** Articles 9 and 10 do not apply to movements of animals within premises which are partly situated in Scotland and partly situated in England, where the movement is from that part of the premises situated in Scotland to that part of the premises situated in England, or vice versa.

### **Application of test**

**12.**—(1) The keeper of the bovine animal to which a test must be applied in accordance with article 9(1), (3), (4) or (7) or article 10(1) must arrange for an approved veterinary surgeon to apply the test and is to meet the expense of its application.

(2) Paragraph (1) does not apply where any bovine animal has had applied to it within the relevant periods a diagnostic test for tuberculosis for purposes other than those of articles 9 (other than a short interval test referred to in article 9(9)) and 10.

### **Restriction on movement after application of test**

**13.**—(1) Unless under the authority of a licence issued by a veterinary inspector, a person must not move a bovine animal from the premises on which it is kept where—

- (a) a diagnostic test for tuberculosis is applied, and
- (b) the results of the test have not yet been read.

### **Restriction on movement etc. subsequent to positive or inconclusive test results**

**14.**—(1) Paragraph (2) applies where—

- (a) a diagnostic test for tuberculosis is applied to a bovine animal,
- (b) the results of that test are read by an inspector or approved veterinary surgeon,
- (c) the inspector or approved veterinary surgeon is satisfied that the test results reveal that the bovine animal is either a reactor, or an inconclusive reactor, and
- (d) the keeper is informed of the test results by a person who has received consent to test under article 35(a).

(2) Where this paragraph applies, the keeper must ensure that—

- (a) no such animal may be moved on or off the premises on which it is kept, except under the authority of a licence issued by a veterinary inspector,
- (b) every reactor and inconclusive reactor is kept in isolation,
- (c) no milk from a reactor is placed in a bulk milk tank, and
- (d) where the reactor is kept on premises with a dairy herd of bovine animals, any commercial buyer of the milk from the herd in which the reactor was found is informed that the herd is subject to restrictions under this article as no longer considered to be free from tuberculosis.

(3) Each of the restrictions or requirements in paragraph 2(a) to (d) remain in force until a veterinary inspector serves a notice amending or withdrawing that restriction or requirement.

### **Reporting test results**

**15.** Any person diagnostically testing a bovine animal for tuberculosis must report the result of that test, as soon as reasonably practicable, to the Scottish Ministers.

### **Obstruction**

**16.** A person must not interfere with, or obstruct the application or reading of, a diagnostic test for tuberculosis applied under this Order.

## PART 4

### Prevention of spread of infection

#### Precautions against spread of infection

17.—(1) Where the Scottish Ministers are satisfied that any bovine animal kept on any premises is an affected animal, a veterinary inspector may, by notice in writing served on the keeper of any such animal, require that person—

- (a) 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,
- (b) to arrange for the isolation of any bovine animal which may be specified in the notice on any part of the premises so specified,
- (c) to ensure that any part of the premises specified in the notice is not used by any bovine animal on the premises, or by such animal as may be so specified,
- (d) at that person's expense and within such time and in such manner as may be specified in the notice, to cleanse and disinfect with an approved disinfectant such part or parts of the premises as may be so specified,
- (e) not to treat and store manure or slurry from any place which has been used by any such animal otherwise than in accordance with the requirements of the notice,
- (f) not to spread any manure or to spray or spread any slurry from any place used by any such animal otherwise than in accordance with the requirements of the notice, and
- (g) to cleanse and wash 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) Where a veterinary inspector reasonably believes that any bovine animal which is, or which has been, on premises that are used for any show, exhibition, market, sale or fair, is an affected animal or has been exposed to the infection of tuberculosis, such veterinary inspector may, by notice in writing served on the occupier of such premises, require the occupier—

- (a) 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
- (b) at the occupier's own expense, and within such time and in such manner as may be specified in the notice—
  - (i) to cleanse and disinfect with an approved disinfectant such part or parts of the premises as may be specified in the notice, and
  - (ii) 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.

(3) If any person on whom a notice is served under this article fails to comply with the requirements of the notice, the Scottish 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 any expenses reasonably incurred by them for the purpose of making good the default are recoverable from the person in default.

(4) In this article “approved disinfectant” means a disinfectant approved for use against tuberculosis under the Diseases of Animals (Approved Disinfectants) (Scotland) Order 2008(5), used at the dilution rate stipulated in the approval and in accordance with the manufacturer's instructions.

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(5) S.S.I. 2008/219, as amended by S.I. 2013/1506.

### **Suspected bovine animals in shows, exhibitions etc.**

**18.**—(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 affected with or has been exposed to the infection of tuberculosis, the inspector may, by notice in writing 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 either—

- (a) to a slaughterhouse for immediate slaughter,
- (b) back to the premises from which the animal was brought to the show, exhibition, market, sale or fair, or
- (c) to such other premises as may be approved by the inspector for the purpose.

(2) A bovine animal may only be moved in accordance with the provisions of paragraph (1)(b) or (c) on condition that it is immediately put into isolation for a period to be terminated by a notice in writing served on the keeper of the animal by a veterinary inspector.

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

**19.**—(1) Where a veterinary inspector reasonably believes that an animal kept on any premises is or may be affected with tuberculosis that inspector may by notice in writing served on the occupier of the 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 on such part of the premises as may be specified, or
- (b) prohibit the movement of any animal on to or off the premises or any part of such premises except under the authority of a licence issued by an inspector.

(2) In this article, “animal” means any kind of mammal except man.

## **PART 5**

### **Slaughter and compensation**

#### **Notification of intended slaughter of bovine animals**

**20.**—(1) Where the Scottish Ministers intend to cause a bovine animal to be slaughtered under section 32 of the Act in its application to tuberculosis, a veterinary inspector must serve a notice on the keeper of the animal informing that person of the intended slaughter and requiring that person 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 keep it in isolation as far as reasonably practicable.

(2) The person on whom such a notice has been served—

- (a) must comply with the notice, and
- (b) must not move the animal, or cause or permit it to be moved, off that part of the premises on which it is required to be detained, except under the authority of a licence issued by a veterinary inspector.

#### **Compensation – general provision**

**21.**—(1) Where the Scottish Ministers cause a bovine animal to be slaughtered under section 32 of the Act in its application to tuberculosis, they must pay compensation in accordance with this article and articles 22 to 27.



(2) Subject to articles 23 to 27, where the animal is identified by means of ear tags and a cattle passport in accordance with the requirements of the Cattle Identification (Scotland) Regulations 2007<sup>(6)</sup>, the compensation payable is the market value of the animal ascertained in accordance with article 22.

(3) Where the animal is not identified by means of ear tags and a cattle passport in accordance with the requirements of the Cattle Identification (Scotland) Regulations 2007, the amount of compensation payable is £1.

(4) Where paragraph (3) applies, the Scottish Ministers must notify the keeper of the decision to pay compensation of £1—

- (a) giving the reasons for the decision, and
- (b) explaining that the keeper has the right to make written representations to a person appointed by the Scottish Ministers in accordance with article 28.

### **Ascertainment of market value**

**22.**—(1) Subject to articles 23 to 27, the market value of a bovine animal is, for the purposes of payment of compensation under article 21, 23, 26 or 27, to be determined—

- (a) by agreement between the Scottish Ministers and the owner of the animal,
- (b) by agreement between two valuers, one appointed by the Scottish Ministers and the other by the owner,
- (c) by one valuer, appointed jointly by the Scottish Ministers and the owner, or
- (d) failing agreement or appointment, by a valuer nominated by the President of the Institute of Auctioneers and Appraisers in Scotland.

(2) The valuer or valuers must give to the Scottish Ministers and the owner of the animal a certificate in writing of the value of the animal.

(3) Any valuer appointed or nominated under paragraph (1) is to be paid by the Scottish Ministers.

(4) Only individuals acting alone may be appointed or nominated for the purposes of this article.

(5) The provisions of article 4 (ascertainment of value for compensation in Scotland) of the Diseases of Animals (Ascertainment of Compensation) Order 1959<sup>(7)</sup> do not apply where the Scottish Ministers cause a bovine animal to be slaughtered under section 32 of the Act in its application to tuberculosis.

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

**23.**—(1) Subject to articles 24 to 27, this article applies where a bovine animal is caused to be slaughtered under section 32 of the Act and the market value of that bovine animal ascertained in accordance with article 22 exceeds—

- (a) £5,000 in the case of a bovine animal other than a pedigree bovine animal, or
- (b) £7,500 in the case of a pedigree bovine animal.

(2) Where this article applies, the compensation payable is the sum mentioned in paragraph (1) (a) or (b), whichever is applicable.

(3) For the purposes of this article—

“2016 Regulation” means Regulation (EU) 2016/1012 of the European Parliament and of the Council on zootechnical and genealogical conditions for the breeding, trade in and entry into the Union of purebred breeding animals, hybrid breeding pigs and the germinal products

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<sup>(6)</sup> S.S.I. 2007/174, amended by S.S.I. 2007/312, S.S.I. 2011/412 and S.S.I. 2017/133.

<sup>(7)</sup> S.I. 1959/1335.

thereof and amending Regulation (EU) No 652/2014, Council Directives [89/608/EEC](#) and [90/425/EEC](#) and repealing certain acts in the area of animal breeding<sup>(8)</sup>,

“breeding book” has the same meaning as Article 2(12)(a) of the 2016 Regulation and “main section of a breeding book” is to be construed in accordance with Article 2(13) of that Regulation,

“breed society” has the same meaning as Article 2(5) of the 2016 Regulation,

“zootechnical certificate” has the same meaning as Article 2(20) of the 2016 Regulation,

“pedigree bovine animal” means a bovine animal—

- (a) which, before the relevant date is entered into the main section of a breeding book by a breed society, and
- (b) for which a zootechnical certificate is—
  - (i) issued by that breed society before the relevant date, and
  - (ii) presented to the Scottish Ministers, or to a valuer appointed or nominated, for the purposes of article 22,

“relevant date” means the date notice was served on the keeper of the animal under article 20 of the intended slaughter of the animal.

### **Compensation for animals subject to movement restrictions**

**24.**—(1) This article applies where—

- (a) a bovine animal is moved onto, or off, premises or part of premises, in breach of a relevant movement restriction or prohibition,
- (b) a diagnostic test for tuberculosis is applied to the animal and the test results reveal that the animal is a reactor,
- (c) the keeper is informed of the test results by a person who has received consent to test under article 35(a), and
- (d) the Scottish Ministers cause the animal to be slaughtered under section 32 of the Act.

(2) Where this article applies, the amount of compensation payable for a slaughtered animal is £1.

(3) Where this article applies, the Scottish Ministers must notify the keeper of the decision to pay compensation of £1—

- (a) giving the reasons for the decision, and
- (b) explaining that the keeper has the right to make written representations to a person appointed by the Scottish Ministers in accordance with article 28.

(4) In paragraph (1)(a), “a relevant movement restriction” means a movement restriction or prohibition applicable in respect of premises by virtue of—

- (a) article 5(1)(b)(i),
- (b) article 7(2)(a) and (c),
- (c) article 14(2)(a),
- (d) article 20(2)(b),
- (e) article 31(1)(b),
- (f) article 33.

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(8) EUR 2016/1012, amended by [S.I. 2019/117](#).

### **Compensation for animals subject to isolation requirements**

**25.**—(1) This article applies where—

- (a) an affected animal or suspected animal is not kept in isolation, in breach of a relevant isolation requirement, and
- (b) the Scottish Ministers cause the animal to be slaughtered under section 32 of the Act.

(2) Where this article applies, the amount of compensation payable for a slaughtered animal is 5% of the amount which would otherwise be payable in accordance with article 22.

(3) Where this article applies, the Scottish Ministers must notify the keeper of the decision to reduce compensation—

- (a) giving the reasons for the decision, and
- (b) explaining that the keeper has the right to make written representations to a person appointed by the Scottish Ministers in accordance with article 28.

(4) In paragraph 1(a), “a relevant isolation requirement” means an isolation requirement applicable in respect of premises by virtue of—

- (a) article 5(1)(b)(ii),
- (b) article 7(2)(a),
- (c) article 14(2)(b),
- (d) article 17(1)(b),
- (e) article 18(2),
- (f) article 20(1).

### **Reduced compensation for testing delays**

**26.**—(1) This article applies where—

- (a) the keeper of the animal is served with a test notice under article 30(1),
- (b) the keeper fails to carry out a diagnostic test for tuberculosis by the latest date specified in the notice (“the specified date”),
- (c) a diagnostic test for tuberculosis is applied to the animal after the specified date and the test results reveal that the animal is a reactor,
- (d) the keeper is informed of the test results by a person who has received consent to test under article 35(a),
- (e) the Scottish Ministers cause the animal to be slaughtered under section 32 of the Act, and
- (f) the market value of the animal is ascertained in accordance with article 22.

(2) Where this article applies, the compensation payable for a slaughtered animal is—

- (a) where the interval between the specified date and the date of the test is more than 60 days but not more than 90 days, 50% of the market value of the animal as ascertained in accordance with article 22, or
- (b) where the interval between the specified date and the date of the test is more than 90 days, 5% of the market value of the animal as ascertained in accordance with article 22.

(3) Where this article applies, the Scottish Ministers must notify the keeper of the decision to reduce compensation—

- (a) giving the reasons for the decision, and
- (b) explaining that the keeper has the right to make written representations to a person appointed by the Scottish Ministers in accordance with article 28.

### **Reduced compensation for presentation of unclean animal for slaughter**

27.—(1) This article applies where—

- (a) the Scottish Ministers cause a bovine animal to be slaughtered under section 32 of the Act,
- (b) the keeper presents the animal, or arranges for the animal to be presented, for slaughter at a slaughterhouse, and
- (c) the official veterinarian at the slaughterhouse is of the opinion that the animal is not in a clean condition in accordance with the requirement in point 4 of chapter 4 of Section 1 of Annex 3 to Regulation (EC) No 853/2004 of the European Parliament and of the Council laying down specific hygiene rules for food of animal origin<sup>(9)</sup>.

(2) Where this article applies, the amount of compensation payable for a slaughtered animal is 50% of the amount which would otherwise be payable in accordance with article 22.

(3) Where this article applies, the Scottish Ministers must notify the keeper of the decision to reduce compensation—

- (a) giving the reasons for the decision, and
- (b) explaining that the keeper has the right to make written representations to a person appointed by the Scottish Ministers in accordance with article 28.

### **Review of decision to pay reduced compensation etc.**

28.—(1) Within a period of 21 days beginning with the date of receipt of a notification under article 21(4), 24(3), 25(3), 26(3) or 27(3), the keeper may make written representations to a person appointed by the Scottish Ministers for the purpose of having the decision to reduce the compensation payable to the keeper reviewed by that person (“the appointed person”).

(2) The appointed person must consider those representations together with any written representations made by the Scottish Ministers.

(3) Having considered representations in accordance with paragraph (2), the appointed person must then report in writing to the Scottish Ministers who must then make their final determination in relation to the amount of compensation payable in respect of the animal caused to be slaughtered under section 32 of the Act.

## **PART 6**

### **Administration and enforcement**

#### **Notices, licences etc.**

29.—(1) Any notice, licence, consent or approval issued or given under this Order—

- (a) must be in writing,
- (b) may be made subject to conditions, and
- (c) may be amended, suspended or revoked in writing at any time.

(2) Where a bovine animal is moved under the authority of a licence issued under this Order—

- (a) the animal must be accompanied throughout such movement by the licence, and
- (b) the person in charge of the animal being moved must, on demand made under this Order by an inspector—

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(9) EUR 2004/853.

- (i) provide that person's name and address,
- (ii) produce the licence, and
- (iii) allow a copy of the licence to be taken.

#### **Tuberculosis testing and facilitating examinations etc.**

**30.**—(1) The Scottish Ministers may serve on the keeper of any bovine animal a notice (“a test notice”) requiring the keeper to have applied to the animal a diagnostic test for tuberculosis before a date specified in the notice.

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

- (a) the examination of that animal by a veterinary inspector or approved veterinary surgeon,
- (b) the application to the animal of a diagnostic test for tuberculosis (following the service of a notice under paragraph (1)), and
- (c) the valuation or slaughter of the animal when the Scottish Ministers intend to cause it to be slaughtered under section 32 of the Act in its application to tuberculosis.

(3) For the purposes of facilitating any examination, testing, valuation or slaughter as mentioned in paragraph (2), an inspector or approved veterinary surgeon may require the keeper of the bovine animal to arrange—

- (a) the collection, penning and securing of the animal, and
- (b) the movement of the animal to and from any premises specified by the inspector or approved veterinary surgeon.

#### **Default**

**31.**—(1) If any person fails to comply with a test notice under article 30(1) or any requirement as mentioned in article 30(2) or (3), the Scottish Ministers—

- (a) may take or cause to be taken all such steps as may be necessary to facilitate the examination, testing, valuation or slaughter of the bovine animal including, subject to paragraph (3), the movement of the animal to other premises, and
- (b) may by notice served on the keeper of the bovine animal prohibit the movement of any bovine animal onto or off the premises, except under the authority of a licence issued by an inspector.

(2) Paragraph (1) is without prejudice to any proceedings for an offence arising out of any failure to comply as mentioned in that paragraph.

(3) Where a bovine animal is moved to other premises in accordance with sub-paragraph (1)(a), the Scottish Ministers must ensure the return of the animal to the premises from which it was moved within a reasonable time after the examination, testing or valuation is carried out.

(4) Any expenses reasonably incurred by the Scottish Ministers for the purposes of making good any default are recoverable from the person in default.

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

**32.**—(1) If so required in writing by a veterinary inspector or approved veterinary surgeon, the keeper of bovine animals kept on any premises must mark such animals in the manner required by the veterinary inspector or approved veterinary surgeon.

(2) That veterinary inspector or approved veterinary surgeon may paint, stamp, clip, tag or otherwise mark bovine animals kept on any premises.

(3) A person must not without reasonable excuse alter, remove, obliterate or deface any mark or identification applied in accordance with paragraphs (1) and (2).

#### **Prohibition on movement of bovine animals**

**33.** A veterinary inspector may by notice in writing served on the keeper of bovine animals kept on such premises as are specified in the notice, prohibit the movement of bovine animals onto or off such premises or any part of such premises, except under the authority of a licence issued by an inspector.

#### **Prohibition on removal of manure, slurry etc.**

**34.** Where a notice is served under the provisions of article 33, no manure, slurry or other animal waste may be removed from such premises except under the authority of a licence issued by an inspector.

#### **Prohibition on testing, vaccination and therapeutic treatment**

**35.** A person must not—

- (a) apply a diagnostic test for tuberculosis to a bovine animal,
- (b) take samples from a bovine animal for the purpose of applying a diagnostic test for tuberculosis,
- (c) vaccinate a bovine animal against tuberculosis, or
- (d) treat a bovine animal for tuberculosis,

without the consent of the Scottish Ministers.

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

**36.—**(1) Subject to paragraph (2), where the presence of the organism *M. bovis* is identified by a laboratory examination of a sample taken from any kind of mammal except man or from the carcase, products or surroundings of any such mammal, the person in charge of that laboratory must immediately notify a laboratory approved by the Scottish Ministers to carry out further investigations.

(2) The duty to notify set out in paragraph (1) does 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.

#### **Enforcement by local authority**

**37.—**(1) Subject to paragraph (2), this Order is enforced by the local authority.

(2) The Scottish Ministers may direct in any particular case or class of case that they will enforce the Order instead.

#### **Offences by bodies corporate**

**38.—**(1) Where a body corporate is guilty of an offence under the Act by virtue of this Order and that offence is shown to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of—

- (a) any director, manager, secretary or other similar officer of the body corporate, or
- (b) any person purporting to act in any such capacity,

that person as well as the body corporate is guilty of an offence and liable to be proceeded against and punished accordingly.

(2) If the affairs of a body corporate are managed by its members, the provisions of paragraph (1) apply in relation to the acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body corporate.

(3) For the purposes of paragraph (1), "director" in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate and "body corporate" includes a partnership in Scotland, and, in relation to such a partnership, a reference to a director or other officer of a body corporate is a reference to a partner.

### **Revocations**

**39.** The instruments specified in the first column of the Schedule are revoked to the extent specified in the corresponding entry in the third column.

### **Consequential amendments**

**40.**—(1) The Bovine Semen (Scotland) Regulations 2007(**10**) are amended as follows.

(2) In paragraph 2(5)(a) of schedule 2 (duties of the centre veterinarian in licensed quarantine centres), for "Tuberculosis (Scotland) Order 2007" substitute "Tuberculosis (Scotland) Order 2023(**11**)".

(3) In paragraph 1(7)(a) of Part 2 (routine tests and treatment which must be applied to all bovine animals in licensed collection centres) of schedule 3 (duties of the centre veterinarian in licensed collection centres), for "Tuberculosis (Scotland) Order 2007" substitute "Tuberculosis (Scotland) Order 2023".

(4) In paragraph 1(2)(a) of Part 2 (routine tests and treatment which must be applied to all bovine animals in domestic collection centres) of schedule 5 (duties of the centre veterinarian in domestic collection centres), for "Tuberculosis (Scotland) Order 2007" substitute "Tuberculosis (Scotland) Order 2023".

(5) In Part 2 (bovine animals that may move to a domestic collection centre or to unlicensed premises) of schedule 8 (movement of bovine animals for semen collection)—

- (a) in paragraph 1(2)(c)(i), for "Tuberculosis (Scotland) Order 2007" substitute "Tuberculosis (Scotland) Order 2023",
- (b) in paragraph 2(2)(a), for "Tuberculosis (Scotland) Order 2007" substitute "Tuberculosis (Scotland) Order 2023".

### **Transitional provisions**

**41.**—(1) The requirement in article 9(1), (2), (3), (4) and (7) of this Order that a diagnostic test for tuberculosis is applied to the bovine animal no more than 30 days before the date of its movement does not apply where a diagnostic test for tuberculosis is applied—

- (a) before the coming into force of this Order, and
- (b) less than 60 days before the date of the bovine animal's movement.

(2) Article 9(9) of this Order does not apply in relation to a diagnostic test for tuberculosis applied before the coming into force of this Order.

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(10) S.S.I. 2007/330; relevant amending instrument is S.S.I. 2019/71.

(11) S.S.I. 2023/93.

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(3) Article 23 of this Order does not apply in relation to the compensation payable for a bovine animal (other than a reactor) where notice informing the keeper of the intended slaughter was served before the coming into force of this Order.

(4) Article 25 of this Order does not apply in relation to a breach of a relevant isolation requirement taking place before the coming into force of this Order.

St Andrew's House,  
Edinburgh  
21st March 2023

*MÀIRI MCALLAN*  
Authorised to sign by the Scottish Ministers



## SCHEDULE

Article 39

## REVOCATIONS

<i>Column 1 — enactment</i>	<i>Column 2 — references</i>	<i>Column 3 - extent</i>
The Tuberculosis (Scotland) Order 2007	<a href="#">S.S.I. 2007/147</a>	The whole Order
The Tuberculosis (Scotland) Amendment Order 2009	<a href="#">S.S.I. 2009/445</a>	The whole Order
The Animal Health (Miscellaneous Amendments) (Scotland) Order 2013	<a href="#">S.S.I. 2013/173</a>	Article 22
The Tuberculosis (Scotland) Amendment Order 2014	<a href="#">S.S.I. 2014/71</a>	The whole Order
The Tuberculosis (Miscellaneous Amendments) (Scotland) (No.2) Order 2018	<a href="#">S.S.I. 2018/333</a>	Article 2
The Animal Health (EU Exit) (Scotland) (Amendment) Regulations 2019	<a href="#">S.S.I. 2019/71</a>	Regulation 20
The Tuberculosis (Scotland) Amendment Order 2022	<a href="#">S.S.I. 2022/334</a>	The whole Order

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

This Order re-enacts the Tuberculosis (Scotland) Order 2007 with amendments. In addition to minor and drafting amendments, it makes the following changes of substance:-

Article 2 (interpretation) includes a definition of “isolation”.

Article 9 (pre-movement testing) now requires a diagnostic test for tuberculosis to be applied to a bovine animal no more than 30 days before the date of the animal’s movement and provides that certain diagnostic tests will not satisfy this pre-movement testing requirement.

Article 23 (compensation for bovine animals slaughtered for tuberculosis) limits the maximum amount of compensation payable for all bovine animals slaughtered due to reasons of tuberculosis, not just reactor animals that have tested positive as being affected with tuberculosis.

Article 25 (compensation for animals subject to isolation requirements) reduces the compensation payable for an animal caused to be slaughtered due to reasons of tuberculosis to 5% of the amount which would otherwise be payable as the market value of the animal, where the animal has not been kept in isolation, in breach of an isolation requirement.

Article 27 (reduced compensation for unclean animal presented for slaughter) reduces the compensation payable for an animal presented for slaughter due to reasons of tuberculosis to 50% of

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the amount which would otherwise be payable as the market value of the animal, where the official veterinarian at the slaughterhouse is of the opinion that the animal is not in a clean condition.

Article 40 makes consequential amendments to the Bovine Semen (Scotland) Regulations 2007.

Transitional provision is made in article 41 for pre-movement diagnostic tests for tuberculosis applied to a bovine animal before the date on which this Order comes into force but less than 60 days before the animal's movement. Provision is also made that the maximum amount of compensation payable for bovine animals which are not reactor animals does not apply where the notice of intended slaughter was served before this Order comes into force and that the reduction in compensation for breach of an isolation requirement does not apply where the breach took place before the coming into force of this Order.