
SCOTTISH STATUTORY INSTRUMENTS

2006 No. 606

**The Welfare of Animals (Transport)
(Scotland) Regulations 2006**

PART 5

Miscellaneous

Powers of inspectors

22.—(1) An inspector may, if the inspector considers animals are being transported, or are about to be transported, in a way which—

- (a) contravenes any provision of these Regulations; or
- (b) constitutes an offence against the Act by virtue of these Regulations

serve a notice on the person [^{F1}responsible for the animals on a permanent or temporary basis] requiring that person to take any action necessary to ensure compliance with these Regulations, giving reasons for the requirements.

(2) An inspector may in particular—

- (a) prohibit the transport of the animals, either indefinitely or for a period specified in the notice;
- (b) specify conditions under which the animals may be transported;
- (c) require the journey to be completed or the animals to be returned to their place of departure by the most direct route, provided that this course of action would not cause unnecessary suffering to the animals;
- (d) require the animals not fit to complete their journey to be unloaded, watered, fed or rested;
- (e) require the humane slaughter or killing of the animals; or
- (f) require a means of transport or container to be repaired or replaced before it is used to transport animals.

(3) Where it is necessary for identification purposes, an inspector may mark an animal.

(4) Any person who defaces, obscures or removes any mark applied under paragraph (3) shall be guilty of an offence under the Act.

[^{F2}(5) An inspector may—

- (a) inspect any document for the purpose of ascertaining whether the provisions of these Regulations, Council Regulation (EC) No. 1/2005, or Council Regulation (EC) No. 1255/97 have been complied with; and
- (b) take copies of any such document inspected or any other document inspected in the course of performing official controls under Regulation (EU) 2017/625.]

(6) An inspector may serve on the owner, or any person appearing to the inspector to be in charge of a control post, a notice requiring that person to take any action the inspector reasonably

considers necessary to ensure compliance with, or remedy any infringement of, Council Regulation (EC) No. 1255/97.

- (7) Without prejudice to the generality of paragraph (6), an inspector may—
- (a) require one or more animals at a control post to be removed from the control post;
 - (b) specify conditions under which animals may remain there.

(8) In deciding whether to serve a notice under this regulation, an inspector may take into account any previous failure to comply with any provision of these Regulations, or of any Order made under section 8, 37, 38 or 39 of the Act or [^{F3}paragraph 13(b)] of Annex II to Council Regulation (EC) No. 1/2005 (return of documents after completion of journey).

(9) Where a person fails to comply with the requirements of a notice served under this regulation, an inspector may take any steps the inspector considers necessary to ensure the requirement is met.

(10) The person in default shall reimburse any reasonable expenses incurred by the Scottish Ministers or the local authority in taking such steps.

Textual Amendments

- F1** Words in reg. 22(1) substituted (13.11.2009) by [The Welfare of Animals \(Transport\) \(Scotland\) Amendment Regulations 2009 \(S.S.I. 2009/339\)](#), regs. 1, **2(4)**
- F2** Reg. 22(5) substituted (6.4.2023) by [The Welfare of Animals \(Transport\) \(Miscellaneous Amendments\) \(England and Scotland\) Regulations 2023 \(S.I. 2023/287\)](#), regs. 1(2), **5(4)(a)**
- F3** Words in reg. 22(8) substituted (6.4.2023) by [The Welfare of Animals \(Transport\) \(Miscellaneous Amendments\) \(England and Scotland\) Regulations 2023 \(S.I. 2023/287\)](#), regs. 1(2), **5(4)(b)**

Powers of inspectors: supplementary

23. The following provisions of the Act apply as if these Regulations were an Order made under that Act and as if the definition of animals and poultry in section 87 of that Act were extended to include all vertebrate animals—

- (a) section 60 (duties and authorities of constables);
- (b) section 63 (general powers of inspectors);
- (c) section 64 (powers of inspectors as to poultry);
- (d) section 64A (powers of inspectors relating to [^{F4}an obligation under [^{F5}assimilated] law]); and
- (e) section 65(1) to (3) (power to detain vessels and aircraft).

Textual Amendments

- F4** Words in reg. 23(d) substituted (31.12.2020) by [The Animal Welfare \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/34\)](#), regs. 1, **4(6)**; 2020 c. 1, Sch. 5 para. 1(1)
- F5** Word in reg. 23(d) substituted (1.1.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendments\) \(Scotland\) Regulations 2023 \(S.S.I. 2023/374\)](#), reg. 1(1), **sch. 2 para. 9**

Compliance with notices

24. Any notice served under these Regulations must be complied with at the expense of the person on whom it is served, except where otherwise provided in that notice.

[^{F6}Service of notices

24A.—(1) Any notice under these Regulations or any notification of a determination of the Scottish Ministers may be served on the person to be affected by it, either—

- (a) by its delivery to that person;
- (b) by the leaving of it for that person at the last known home or business address; or
- (c) by the sending of it through the post in a letter addressed to that person at the last known home or business address.

(2) Any reference in these Regulations to anything done in writing or produced in written form includes reference to an electronic communication as defined in the Electronic Communications Act 2000 which has been recorded and is consequently capable of reproduction.

(3) An electronic communication shall be taken to be received on the day after the day of its transmission.

Textual Amendments

F6 Regs. 24A, 24B inserted (13.11.2009) by [The Welfare of Animals \(Transport\) \(Scotland\) Amendment Regulations 2009 \(S.S.I. 2009/339\)](#), regs. 1, **2(5)**

Appeals

24B.—(1) A person may appeal to the sheriff against—

- (a) a determination notified by the Scottish Ministers under regulation 21(4); or
- (b) a notice served by an inspector under regulation 22.

(2) An appeal under this regulation shall be made by way of summary application and shall be lodged with the sheriff clerk within the period of 28 days from the day on which the determination was notified or notice was served.

(3) On special cause being shown, the sheriff may hear an appeal under this regulation notwithstanding that it was not lodged within the time mentioned in paragraph (2).

(4) For the purposes of an appeal under this regulation, the sheriff may require the Scottish Ministers or the local authority to give reasons for the determination or notice, and the Scottish Ministers or the local authority must comply with such a requirement.

(5) The sheriff may uphold an appeal under this regulation only if the sheriff considers that the Scottish Ministers or the local authority—

- (a) erred in law;
- (b) based their determination or notice on any incorrect material fact;
- (c) acted contrary to natural justice; or
- (d) exercised their discretion in an unreasonable manner.

(6) In considering an appeal under this regulation, the sheriff may hear evidence by or on behalf of any party to the appeal.

(7) On upholding an appeal under this regulation, the sheriff may—

- (a) remit the case with the reasons for such decision to the Scottish Ministers or the local authority for reconsideration; or
- (b) reverse or modify the determination or notice of the Scottish Ministers or the local authority.

(8) On remitting a case under paragraph (7)(a), the sheriff may—

- (a) specify a date by which the reconsideration by the Scottish Ministers or the local authority must take place;
 - (b) modify any procedural steps which otherwise would be required in relation to the matter by or under any enactment, Act of the Scottish Parliament and subordinate legislation made under an Act of the Scottish Parliament (including these Regulations).
- (9) The sheriff may include in the decision on an appeal under this regulation such order as to the expenses of the appeal as the sheriff thinks proper.
- (10) The decision of the sheriff is final.]

Textual Amendments

- F6** Regs. 24A, 24B inserted (13.11.2009) by [The Welfare of Animals \(Transport\) \(Scotland\) Amendment Regulations 2009 \(S.S.I. 2009/339\)](#), regs. 1, **2(5)**

Production of plans

- 25.**—(1) The owner or charterer of any vessel to be used for the transport of animals must—
- (a) produce to an officer of the Scottish Ministers, on demand, plans of the vessel (including details of its ventilation and any fittings for livestock); and
 - (b) provide such information concerning the vessel as the officer considers necessary to enable the officer to ascertain whether the provisions of these Regulations will be complied with during the proposed journey.
- (2) No person is obliged by virtue of paragraph (1) to provide any information which that person cannot, with the exercise of reasonable diligence, obtain.

Obstruction

- 26.** No person shall—
- (a) without reasonable cause, fail to give any person acting under Council Regulation (EC) No. 1/2005 or Council Regulation (EC) No. 1255/97^{F7} or Regulation (EU) 2017/625] or these Regulations any assistance or information which that person may reasonably require for the purposes of the latter's functions under Council Regulation (EC) No. 1/2005, Council Regulation (EC) No. 1255/97^{F8}, Regulation (EU) 2017/625] or these Regulations;
 - (b) provide false information on any journey log (whether submitted for approval, returned to the officer of the Scottish Ministers after the journey or otherwise) or provide false information on any documentation carried pursuant to Article 4 of Council Regulation (EC) No. 1/2005;
 - (c) make an entry in a record or statement, or give any information for the purposes of these Regulations, which that person knows to be false in any material particular or, for those purposes, recklessly makes a statement or gives any information which is false in any material particular; or
 - (d) cause or permit any of the above.

Textual Amendments

- F7** Words in [reg. 26\(a\)](#) inserted (6.4.2023) by [The Welfare of Animals \(Transport\) \(Miscellaneous Amendments\) \(England and Scotland\) Regulations 2023 \(S.I. 2023/287\)](#), regs. 1(2), **5(5)(a)**

F8 Words in reg. 26(a) inserted (6.4.2023) by The Welfare of Animals (Transport) (Miscellaneous Amendments) (England and Scotland) Regulations 2023 (S.I. 2023/287), regs. 1(2), 5(5)(b)

Offences by bodies corporate

27.—(1) Where a body corporate is guilty of an offence under the Act by virtue of these Regulations and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—

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

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

(2) 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.

(3) “Body corporate” includes a partnership in Scotland and, in relation to such a partnership, a reference to an officer of a body corporate is a reference to a partner.

Enforcement and offences

28.—(1) These Regulations are enforced by the local authority.

(2) The Scottish Ministers may direct, in relation to cases of a particular description or a particular case, that any duty imposed on a local authority under paragraph (1) shall be discharged by the Scottish Ministers and not the local authority.

(3) The following provisions of the Act apply as if these Regulations were an Order made under the Act, and as if the definitions of animals and poultry in section 87 of the Act were extended to include all vertebrate animals—

- (a) section 66 (refusal and obstruction);
- (b) section 67 (issue of false licences etc.);
- (c) section 68 (issue of licences etc. in blank);
- (d) section 69 (falsely obtaining licences etc.);
- (e) section 70 (alteration of licences etc.);
- (f) section 71 (other offences as to licences);
- (g) section 72 (offences made and declared by and under this Act);
- (h) section 73 (general offences);
- (i) section 77 (money recoverable summarily); and
- (j) section 79(1) to (4) (evidence and procedure).

(4) No contravention of, or failure to comply with, a provision of these Regulations by the Scottish Ministers, a local authority, a veterinary inspector or an inspector shall constitute a contravention for the purposes of any section listed in paragraph (3).

(5) A person who, by virtue of these Regulations is guilty of an offence under the Act, is liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding level 5 on the standard scale or to both.

Changes to legislation: *There are currently no known outstanding effects for the The Welfare of Animals (Transport) (Scotland) Regulations 2006, PART 5. (See end of Document for details)*

Revocations

29. The Orders specified in the Schedule to this Order, insofar as they have effect in Scotland, are revoked.

Changes to legislation:

There are currently no known outstanding effects for the The Welfare of Animals (Transport) (Scotland) Regulations 2006, PART 5.