

**2010 No. 150**

**ANIMALS**

**ANIMAL HEALTH**

**The Poultry Compartments (Scotland) Order 2010**

*Made* - - - - *15th April 2010*  
*Coming into force* - - *10th May 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(a) and paragraph 1A of Schedule 2 to the European Communities Act 1972(b).

This Order makes provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Scottish Ministers that it is expedient for references to Commission Regulation (EC) No. 616/2009 to be construed as references to that Commission Regulation as amended from time to time.

**Citation, commencement and extent**

**1.** This Order—

- (a) may be cited as the Poultry Compartments (Scotland) Order 2010;
- (b) comes into force on 10th May 2010; and
- (c) extends to Scotland only.

**Interpretation**

**2.** In this Order—

“administrative site” means premises in which documents or records relating to a production site are kept;

“Commission Regulation” means Commission Regulation (EC) No. 616/2009 implementing Council Directive 2005/94/EC as regards the approval of poultry compartments and other captive birds compartments with respect to avian influenza and additional preventive biosecurity measures in such compartments(c) as amended from time to time; and

“production site” means premises where poultry are kept for the purposes of breeding, rearing, fattening or egg production and which are the subject of an application under article 4.

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(a) 1981 c. 22 (“the 1981 Act”). The power to make Orders under these sections was originally conferred on “the Ministers” as defined in section 86(1) of the 1981 Act. The functions of the Ministers were, insofar as within devolved competence, transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(b) 1972 c. 68. Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c.51).

(c) O.J. No L 181, 14.7.2009, p.16.

### **Competent authority**

3. The Scottish Ministers are the competent authority for the purposes of the Commission Regulation.

### **Applications**

4. Applications for approval of compartments must be made in such form as the Scottish Ministers may require in accordance with the Commission Regulation.

### **Powers of inspectors**

5.—(1) An inspector may, for any purpose relating to this Order or to the Commission Regulation—

- (a) enter any administrative site, production site or compartment;
- (b) have access to, and inspect, any document or record;
- (c) remove and retain a copy of any document or record;
- (d) have access to, and check the operation of, any computer and any associated apparatus or material which is or has been used in connection with a document or record;
- (e) where a document or record is kept by means of a computer, require the document or record to be produced in a form in which it may be taken away; and
- (f) be accompanied by a representative of the European Commission or any person the inspector considers necessary.

(2) A person required to do anything by an inspector acting under paragraph (1) must, unless that person has reasonable cause, do so without delay.

*RICHARD LOCHHEAD*  
A member of the Scottish Executive

St Andrew's House,  
Edinburgh  
15th April 2010

## EXPLANATORY NOTE

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

This Order implements Commission Regulation (EC) No. 616/2009 (“the Commission Regulation”) which makes provision for the approval of poultry compartments which meet certain biosecurity standards.

Article 3 provides that the Scottish Ministers are the competent authority for the purposes of the Commission Regulation.

Article 4 provides that applications for approval of compartments must be made in such form as the Scottish Ministers may require. Application for approval is voluntary. The Commission Regulation requires the competent authority to suspend approval of a compartment in the event of non-compliance with the information submitted in the application for approval, or with the criteria and requirements set out in the Annex to the Commission Regulation. Following suspension, the competent authority is required to withdraw approval if there is continued non-compliance or in the event of an outbreak of avian influenza in the compartment.

Article 5 sets out the powers under the Order of persons appointed as inspectors under the Animal Health Act 1981. Refusing entry to, or otherwise obstructing or impeding an inspector in the execution of the inspector’s duties under article 5 is an offence under section 66 of that Act.

A regulatory impact assessment has not been prepared for this instrument.

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