
SCOTTISH STATUTORY INSTRUMENTS

2015 No. 327

The Tuberculosis in Specified Animals (Scotland) Order 2015

Citation, commencement and extent

1.—(1) This Order may be cited as the Tuberculosis in Specified Animals (Scotland) Order 2015 and comes into force on 9th October 2015.

(2) This Order extends to Scotland only.

Interpretation

2.—(1) In this Order, except where the context otherwise requires—

“the Act” means the Animal Health Act 1981;

“affected animal” means a specified animal which is affected with tuberculosis of the udder or is giving tuberculous milk or is affected with tuberculous emaciation or is excreting or discharging tuberculous material or is affected with a chronic cough or shows any other clinical signs of tuberculosis;

“approved disinfectant” means a disinfectant approved by the Scottish Ministers for use against tuberculosis under the Diseases of Animals (Approved Disinfectants) (Scotland) Order 2008(1), used at the dilution rate stipulated in the approval and in accordance with the manufacturer’s instructions;

“approved veterinary surgeon” means a veterinary surgeon who is approved in accordance with article 3;

“authorised veterinary inspector” means a veterinary inspector authorised by the Scottish Ministers to receive information about affected or suspected animals or the carcasses of such animals;

“carcase” includes any part of a specified animal;

“deer” means deer of any species that are managed by a keeper (including deer that are managed on enclosed park land);

“inconclusive reactor” means a specified animal in respect of which the results from a relevant test are not negative but do not indicate that it is a reactor;

“keeper” means any person who owns or has possession or charge of a specified animal or carcase, whether on a permanent or temporary basis;

“milk” includes cream and separated or skimmed milk;

“premises” includes land with or without buildings;

“reactor” means a specified animal that produces a reaction consistent with its being affected with tuberculosis when tested for that disease;

“relevant test” means a tuberculin skin test or any other diagnostic test for tuberculosis approved by the Scottish Ministers;

“specified animal” means a deer, goat, pig, sheep, alpaca, guanaco, llama or vicuña;

“suspected animal” means a specified animal that is suspected of being infected with tuberculosis and includes a reactor and a specified animal exposed to the infection of tuberculosis;

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

“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 a relevant test 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) If the Scottish Ministers by notice given to the veterinary surgeon revoke an approval granted under this article, they must give reasons for the revocation.

Notification of disease in specified animals

4.—(1) Any person who—

- (a) is the keeper of a specified animal, and who knows or suspects that that animal is or may be an affected animal or a suspected animal;
- (b) in the course of practice as a veterinary surgeon, examines or inspects a specified animal and, following such examination or inspection, knows or suspects that that animal is or may be an affected animal or a suspected animal,

must immediately inform the Scottish Ministers of such knowledge or suspicion.

(2) Following the giving of the information under paragraph (1), and prior to the conclusion of a veterinary inquiry under article 6 (veterinary inquiry as to the existence of disease), the keeper must—

- (a) detain the animal on the premises on which it was located at the time of the giving of the information;
- (b) isolate the animal as far as practicable from other animals; and
- (c) take steps to ensure that milk produced by that 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.

Notification of disease in carcasses of wild deer

5.—(1) Any person who—

- (a) is the keeper of the carcass of a wild deer and who knows or suspects that that carcass is or may be the carcass of an affected animal or a suspected animal; or

(2) 1966 c.36, relevantly amended by S.I. 1980/1951, S.I. 2003/2919 and S.I. 2008/1824.

(3) 2000 c.7; section 15(1) was amended by the Communications Act 2003 (c.21), section 406 and Schedule 17, paragraph 158.

- (b) in the course of practice as a veterinary surgeon, examines or inspects the carcase of a wild deer and, following such examination or inspection, knows or suspects that the carcase is or may be that of an affected animal or a suspected animal,

must immediately inform the Scottish Ministers of such knowledge or suspicion.

(2) Following the giving of the information under paragraph (1), and prior to the conclusion of a veterinary inquiry under article 6 (veterinary inquiry as to the existence of disease) or the taking of a diagnostic sample from the carcase under the direction of a veterinary inspector, the keeper must—

- (a) detain the carcase on the premises on which it was located at the time of the giving of the information; and
- (b) isolate the carcase as far as practicable from other animals.

(3) If the carcase is in a slaughterhouse, the operator of the slaughterhouse must keep it isolated from other carcasses of slaughtered animals.

Veterinary inquiry as to the existence of disease

6.—(1) Where a veterinary inspector reasonably believes that there is on any premises an affected animal, a suspected animal or the carcase of such an animal, the inspector must, with all practicable speed, take such steps as may be necessary to establish whether the animal or carcase is affected with tuberculosis.

(2) For the purposes of such an inquiry, a veterinary inspector or an approved veterinary surgeon may—

- (a) examine any specified animal or carcase;
- (b) carry out such tests and take such samples from any specified animal or carcase as considered necessary for the purpose of diagnosis; and
- (c) apply means of identification to any specified animal or carcase.

(3) The occupier of the premises or the keeper of the specified animal or carcase (if a different person) must—

- (a) provide such reasonable facilities and comply with such reasonable requirements as are necessary for the purposes of the inquiry; and
- (b) if so required by a veterinary inspector or an approved veterinary surgeon, provide information as to the identity, location and movement of any specified animal or carcase.

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

- (a) detain the animal on the premises on which it is located in accordance with any requirements stipulated in the notice and keep it isolated from other animals;
- (b) where appropriate take steps to ensure that milk produced by the animal is not mixed with milk produced by another animal 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 animal or carcase is moved on to or off the premises or any such part of the premises as may be stipulated in the notice, except under the authority of a licence issued by a veterinary inspector.

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

Tuberculosis testing

7.—(1) Paragraph (2) applies where the Scottish Ministers have issued a notice to the keeper of a specified animal.

(2) The Scottish Ministers may test, or arrange for the testing of, the animal for tuberculosis using a relevant test.

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

- (a) the identification and examination of the animal;
- (b) the application to it, or the reading, of any relevant test; or
- (c) the removal of the animal for slaughter.

Restriction on movement after application of test

8. Where a relevant test has been applied to a specified animal and the results of the test have not yet been read, a person must not move the animal from the premises, or any part of the premises on which it is kept, except under the authority of a licence issued by a veterinary inspector.

Restriction on movement following positive or inconclusive test results

9.—(1) Paragraph (2) applies where—

- (a) a relevant test has been applied to a specified animal;
- (b) the result of that test has been read by a veterinary inspector or an approved veterinary surgeon, who is satisfied that the test reading identifies the animal as a reactor or an inconclusive reactor; and
- (c) the result of that test has been communicated to the keeper.

(2) The reactor or, as the case may be, inconclusive reactor must not be moved from the premises, or any part of the premises on which it is kept, except under the authority of a licence issued by a veterinary inspector.

Reporting test results

10. Any person who has tested a specified animal using a relevant test must, where the results identify the animal as a reactor or an inconclusive reactor, report those results to the Scottish Ministers as soon as they are known.

Prohibitions

11.—(1) A person must not vaccinate a specified animal against tuberculosis without the written consent of the Scottish Ministers.

(2) A person must not treat a specified animal for tuberculosis without the written consent of the Scottish Ministers.

(3) A person must not interfere with or obstruct the application, or the reading, of a relevant test applied under this Order.

Isolation and prohibition on movement of specified animals

12. A veterinary inspector may, for the purpose of controlling or preventing the spread of tuberculosis, serve a notice on the keeper of any specified animal kept on such premises as are stipulated in the notice—

- (a) requiring any such animal to be isolated from other animals to the extent stipulated in the notice; and
- (b) prohibiting the movement of any such animal, or of such specified animals as are stipulated in the notice, on to or off the premises, except under the authority of a licence issued by a veterinary inspector.

Notification of intended slaughter of specified animals

13.—(1) Paragraph (2) applies where the Scottish Ministers intend to cause a specified animal to be slaughtered under section 32 of the Act (slaughter in other diseases) in its application to tuberculosis.

- (2) A veterinary inspector must serve a notice on the keeper of the animal—
 - (a) informing the keeper of the intended slaughter;
 - (b) requiring the keeper to detain the animal pending its slaughter, or pending its surrender and removal for slaughter, on such part of the premises as is stipulated in the notice; and
 - (c) requiring the keeper to isolate the animal as far as practicable from any other animals stipulated in the notice.
- (3) 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, from 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.

Precautions against spread of infection

14. Where the Scottish Ministers are satisfied that any specified animal kept on any premises is an affected animal or a suspected animal, or where tuberculosis has been identified on any premises, a veterinary inspector may, by notice served on the keeper of any such animal, require the keeper or the person in occupation or in charge of the premises (as appropriate)—

- (a) to treat and store manure or slurry from any place which has been used by the animal in accordance with the requirements of the notice;
- (b) not to spread any manure or to spray or spread any slurry from any place which has been used by the animal otherwise than in accordance with any requirements of the notice;
- (c) not to remove from the premises, except under the authority of a licence issued by a veterinary inspector, manure, slurry or other animal waste, straw, litter or other matter which, to that person's knowledge, has or might have come into contact with the animals on the premises;
- (d) to take reasonable steps to prevent any specified animal kept on the premises from infecting any other farmed animal kept on the same premises or on any adjoining premises;
- (e) to arrange for the isolation of any specified animals to the extent stipulated in the notice;
- (f) to ensure that such part of the premises as may be stipulated in the notice is not used by any specified animal, or by such other animal, for such period as may be stipulated in the notice;
- (g) to cleanse and disinfect at the keeper's own expense, with an approved disinfectant, such part of the premises as may be stipulated in the notice, within such time and in such manner as may be so stipulated;

- (h) to cleanse and disinfect at the keeper's own expense, with an approved disinfectant, all utensils and other articles used for or in relation to the animal, within such time and in such manner as may be stipulated in the notice; and
- (i) to take such other action as the veterinary inspector considers appropriate.

Precautions in relation to shows, exhibitions etc.

15.—(1) Where a veterinary inspector reasonably believes that a specified animal on any premises at which a show, exhibition, market, sale or fair is being held, is an affected animal or a suspected animal, that inspector may, by notice served on the keeper of the animal, require the keeper to remove the animal from those premises and take it—

- (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 stipulated in the notice.

(2) Where a veterinary inspector reasonably believes that a specified animal which is on, or which has been on, any premises that are used for any show, exhibition, market, sale or fair, is an affected animal or a suspected animal, that inspector may, by notice served on the occupier of the premises, require the occupier—

- (a) to ensure that such part of the premises as may be stipulated in the notice is not used by any other animal for such period as may be stipulated in the notice; and
- (b) at the occupier's own expense, and within such time and in such manner as may be stipulated in the notice—
 - (i) to cleanse and disinfect with an approved disinfectant such part of the premises as may be stipulated in the notice; and
 - (ii) to dispose of any manure, slurry or other animal waste, straw, litter or other matter which, to the occupier's knowledge, has or might have come into contact with the animal.

Identification requirements for deer

16.—(1) A person must not move a deer on to or off any premises unless it has had a means of identification applied to it in a manner approved by the Scottish Ministers.

(2) A person must not move the carcase of any deer on to or off any premises unless it has had a means of identification applied to it in a manner approved by the Scottish Ministers.

(3) A person must not test any deer for tuberculosis unless the deer has had a means of identification applied to it in a manner approved by the Scottish Ministers.

(4) If directed by a veterinary inspector or an approved veterinary surgeon, a keeper of deer must apply a means of identification to the deer, in a manner approved by the Scottish Ministers.

(5) A person must not change or interfere with any means of identification that has been applied in accordance with this article.

Identification requirements for alpacas, guanacos, llamas and vicuñas

17.—(1) A person must not move an alpaca, guanaco, llama or vicuña that is an affected animal or a suspected animal on to or off any premises unless it has had a means of identification applied to it in a manner approved by the Scottish Ministers.

(2) A keeper of a carcase of an alpaca, guanaco, llama or vicuña, that is known to be or suspected of being the carcase of an affected animal or a suspected animal, must not move that carcase on to

or off any premises unless it has had a means of identification applied to it in a manner approved by the Scottish Ministers.

(3) A person must not test any alpaca, guanaco, llama or vicuña for tuberculosis unless that animal has had a means of identification applied to it in a manner approved by the Scottish Ministers.

(4) If directed by a veterinary inspector or an approved veterinary surgeon, a keeper of an alpaca, guanaco, llama or vicuña must apply a means of identification to the animal in a manner approved by the Scottish Ministers.

(5) A veterinary inspector or an approved veterinary surgeon may apply a means of identification in a manner approved by the Scottish Ministers to any alpaca, guanaco, llama or vicuña.

(6) A person must not change or interfere with any means of identification that has been applied in accordance with this article.

General provisions as to notices, licences, directions and approvals

18.—(1) Any licence, approval or direction issued or granted under this Order must be in writing.

(2) Any licence issued under this Order may be general or specific and may be made subject to conditions.

(3) Any approval granted under this Order may be made subject to conditions.

(4) A notice issued under this Order may be amended, suspended or revoked by further notice at any time.

(5) A licence, approval or direction issued or granted under this Order may be amended, suspended or revoked in writing at any time.

(6) Any person to whom any requirement or condition in a notice, licence, approval or direction issued or granted under this Order applies must comply with the requirement or condition.

(7) In the case of a body corporate, a notice may be served on or given to a relevant individual within that body.

(8) In the case of a Scottish partnership a notice may be served on or given to a partner.

(9) In the case of an unincorporated association other than a Scottish partnership, a notice may be served on or given to a person concerned in the management or control of the association.

(10) If the name or address of any occupier of premises on whom a notice is to be served or given under this Order cannot, after reasonable inquiry, be ascertained, the notice may be served by leaving it conspicuously affixed to a building or object on the premises.

(11) If any person on whom a notice is served fails to comply with the requirements of the notice, the Scottish Ministers may, without prejudice to any proceedings for an offence under section 73 of the Act (general offences)⁽⁴⁾ arising out of such default, carry out or cause to be carried out the requirements of the notice, and the Scottish Ministers may recover from the keeper any expenses reasonably incurred by the Ministers.

(12) In paragraph (7), “relevant individual” means—

(a) a director, manager, secretary or other similar officer of the body; or

(b) where the affairs of the body are managed by its members, a member.

Enforcement

19.—(1) This Order is to be enforced by a local authority.

(4) Section 73 was inserted by the Animal Health and Welfare (Scotland) Act 2006 (asp 11), schedule 2, paragraph 3(1).

(2) The Scottish Ministers may direct, in relation to any particular case or class of case, that they will enforce this Order instead of the local authority.

Offences by bodies corporate, etc.

20.—(1) Where—

- (a) an offence under this Order has been committed by a body corporate or a Scottish partnership or other unincorporated association; and
- (b) it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of—
 - (i) a relevant individual; or
 - (ii) an individual purporting to act in the capacity of a relevant individual,

the individual as well as the body corporate, Scottish partnership or unincorporated association commits an offence and is liable to be proceeded against and punished accordingly.

(2) In paragraph (1), “relevant individual” means—

- (a) in relation to a body corporate—
 - (i) a director, manager, secretary or other similar officer of the body;
 - (ii) where the affairs of the body are managed by its members, a member;
- (b) in relation to a Scottish partnership, a partner;
- (c) in relation to an unincorporated association other than a Scottish partnership, a person who is concerned in the management or control of the association.

Compensation for specified animals slaughtered for tuberculosis

21.—(1) Where—

- (a) the Scottish Ministers cause a specified animal to be slaughtered under section 32(1) of the Act (slaughter in other diseases) in its application to tuberculosis; and
- (b) provided that the animal is identified in accordance with (as the case may be)—
 - (i) the Sheep and Goats (Records, Identification and Movement) (Scotland) Order 2009⁽⁵⁾ and Section A of the Annex to Council Regulation (EC) No 21/2004 establishing a system for the identification and registration of ovine and caprine animals and amending Regulation (EC) No 1782/2003 and Directives 92/102/EEC and 64/432/EEC⁽⁶⁾;
 - (ii) the Pigs (Records, Identification and Movement) (Scotland) Order 2011⁽⁷⁾;
 - (iii) article 16 (identification requirements for deer); or
 - (iv) article 17 (identification requirements for alpacas, guanacos, llamas and vicuñas),

the compensation payable under section 32(3) of the Act in respect of that animal is, subject to paragraphs (2) and (3), its value as calculated in accordance with the Schedule.

(2) Where the Scottish Ministers consider that the market value of a specified animal may be less than the value of that animal as calculated in accordance with the Schedule, they must determine the animal’s market value in accordance with article 22.

⁽⁵⁾ S.S.I. 2009/414.

⁽⁶⁾ OJ L 5, 9.1.2004, p.8 as last amended by Council Regulation (EU) No 517/2013 (OJ L 158, 10.6.2013, p.1).

⁽⁷⁾ S.S.I. 2011/327, amended by S.S.I. 2011/351.

(3) If the market value of a specified animal as determined in accordance with article 22 is less than its value as calculated in accordance with the Schedule, the compensation payable under section 32(3) of the Act in respect of that animal is to be its market value.

Determination of market value

22.—(1) The market value of a specified animal is, for the purposes of payment of compensation under section 32(3) of the Act, determined on the basis of the value of the animal immediately before any suspicion of tuberculosis arose—

- (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 appointed 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 under paragraph (1) must be paid by the Scottish Ministers.

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

Revocations and amendment

23.—(1) The following Orders are revoked in so far as they apply in relation to Scotland—

- (a) the Tuberculosis (Deer) Order 1989⁽⁸⁾;
- (b) the Tuberculosis (Deer) Notice of Intended Slaughter and Compensation Order 1989⁽⁹⁾; and
- (c) the Tuberculosis (Deer) (Amendment) Order 1993⁽¹⁰⁾.

(2) In the Animal Health (Miscellaneous Amendments) (Scotland) Order 2013⁽¹¹⁾, omit article 8.

Transitional provision

24. Any notice or licence served or issued under the Tuberculosis (Deer) Order 1989 or the Tuberculosis (Deer) Notice of Intended Slaughter and Compensation Order 1989 and which has effect at the coming into force of this Order remains in force as if it were a notice or licence served or issued under this Order.

St Andrew's House,
Edinburgh
8th September 2015

RICHARD LOCHHEAD
A member of the Scottish Government

⁽⁸⁾ S.I. 1989/878.

⁽⁹⁾ S.I. 1989/1316.

⁽¹⁰⁾ S.I. 1993/2010.

⁽¹¹⁾ S.S.I. 2013/173.