
SCOTTISH STATUTORY INSTRUMENTS

2008 No. 219

The Diseases of Animals (Approved Disinfectants) (Scotland) Order 2008

Citation, commencement and extent

1.—(1) This Order may be cited as the Diseases of Animals (Approved Disinfectants) (Scotland) Order 2008 and comes into force on 23rd June 2008.

(2) This Order extends to Scotland only.

Interpretation

2.—(1) In this Order—

“approved disinfectant” means a disinfectant approved by the Scottish Ministers under this Order; and

“supplier” means a person supplying disinfectant in the course of carrying on a business.

(2) Any approval under this Order or any renewal, amendment, suspension or revocation of an approval must be in writing.

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

Approval of disinfectants

3.—(1) The manufacturer of a disinfectant may apply to the Scottish Ministers for the approval of that disinfectant for use in cases where an order or regulations under the Animal Health Act 1981 specifies that an approved disinfectant must be used.

(2) The Scottish Ministers may only approve a disinfectant if they are satisfied—

(a) as to its efficacy and quality; and

(b) that it complies with the Biocidal Products Regulations 2001(2).

(3) The approval—

(a) must specify the dilution rate; and

(b) may contain other conditions to which the approval is subject.

(4) The Scottish Ministers—

(a) may test the disinfectant at any time; and

(b) must test it before approving it unless—

(i) the disinfectant has the same formulation as another disinfectant manufactured by the manufacturer whose application it is;

(1) 2000 c. 7; section 15(1) contains a definition of “electronic communication” and is amended by paragraph 158 of Schedule 17 to the Communications Act 2003 (c. 21).

(2) S.I.2001/880; as amended by S.I. 2003/429, 2005/2451 and 2759 and 2007/293.

- (ii) that other disinfectant is an approved disinfectant; and
- (iii) approval is sought only for use in one or more of the circumstances in respect of which the other disinfectant is approved.

(5) The Scottish Ministers must publish a list of approved disinfectants specifying the dilution rate.

(6) In this article, “dilution rate” means the number of parts of water with which one part of an approved disinfectant is to be diluted.

Use of the disinfectant

4. An approved disinfectant may only be used in accordance with the conditions of its approval or as directed by an inspector.

Duration of approval and renewal

5.—(1) An approval is for a period of 2 years and may be renewed within 3 months prior to its expiry.

(2) An approval which is the subject of an application for renewal is valid up to the date on which the applicant is notified of the decision to renew or to refuse to renew the approval.

Amendment, suspension and revocation of approvals

6.—(1) The Scottish Ministers may amend, suspend or revoke the approval or refuse to renew the approval if—

- (a) production of the disinfectant has ceased; or
- (b) the disinfectant—
 - (i) is no longer efficacious or of suitable quality;
 - (ii) does not comply with any condition of the approval; or
 - (iii) does not comply with the Biocidal Products Regulations 2001.

(2) The Scottish Ministers may also suspend an approval pending investigation of any disinfectant if they have reasonable grounds to suspect that any of the grounds in paragraph (1) apply.

Review of a decision by the Scottish Ministers

7.—(1) A manufacturer may apply in writing to the Scottish Ministers for a review of a decision.

(2) An application for review—

- (a) must be made within 28 days after the date on which notice of the decision is received by the applicant; and
- (b) may include any written explanation that the applicant considers appropriate.

(3) A decision which is the subject of an application for review shall, unless the Scottish Ministers direct otherwise in writing, have effect until the date of determination of that application.

(4) The application for review shall be determined by the Scottish Ministers, in accordance with paragraphs (5) to (9).

(5) The Scottish Ministers shall name an appointed person.

(6) The Scottish Ministers shall inform the applicant in writing—

- (a) of the name and address of the appointed person;
- (b) of the role of that person; and

- (c) that the applicant may give a written explanation (or further explanation) to that person.
- (7) Any written explanation referred to in paragraph (6) shall be given to the appointed person within 14 days after the date of intimation to the applicant under that paragraph.
- (8) The appointed person shall—
- (a) examine the merits of the decision;
 - (b) consider any written explanation given by the applicant;
 - (c) report to the Scottish Ministers following that examination; and
 - (d) include in that report such recommendation (if any) for determination of the application as the appointed person shall think fit.
- (9) The Scottish Ministers shall consider the report of, and any recommendation by, the appointed person.
- (10) The Scottish Ministers shall inform the applicant in writing of the result of the determination of the review.
- (11) In this article, “decision” means the—
- (a) determination of an application for approval;
 - (b) decision to attach a condition to an approval;
 - (c) amendment, suspension or revocation of an approval; or
 - (d) refusal to renew an approval.

Duties of manufacturers and suppliers in relation to amended, suspended or revoked approvals

8.—(1) If the Scottish Ministers amend, suspend or revoke the approval of a disinfectant or refuse to renew an approval, the manufacturer, and any supplier who becomes aware of the fact, must take all reasonable steps to notify every person in the United Kingdom to whom the manufacturer or supplier has supplied the disinfectant in the previous 6 months of that fact.

(2) Such notification must be given within one month of the manufacturer or supplier becoming aware of the amendment, suspension or revocation of the approval, or the refusal to renew the approval.

Placing disinfectant on the market

9. No person may sell, or offer to sell, any disinfectant that is labelled or otherwise represented as an approved disinfectant if—

- (a) it is not approved under this Order; or
- (b) the formula for it has changed since its approval was granted.

References to disinfectants in Orders under the Animal Health Act 1981

10.—(1) Any reference in an order or regulations under the Animal Health Act 1981 to a disinfectant approved under the Diseases of Animals (Approved Disinfectants) Order 1978⁽³⁾ (“the 1978 Order”) or listed in a Schedule to that Order is a reference to a disinfectant approved under this Order.

(3) S.I. 1978/32; relevantly amended by S.I. 1978/934 and 1999/919 and S.S.I. 2001/45 and 51, 2003/334, 2004/537, 2005/99 and 587 and 2006/352.

(2) Any reference in an Order or Regulations under the Animal Health Act 1981 to the concentration or dilution rate specified in the 1978 Order is a reference to the concentration or dilution rate specified in the list of approved disinfectants published under article 3(5).

Provision of information and samples

11.—(1) The Scottish Ministers may, at any time, for the purposes of this Order require the manufacturer of a disinfectant for which approval is sought or granted, or any person in possession of such a disinfectant, to—

- (a) provide samples of that disinfectant for testing; or
- (b) provide any information relating to that disinfectant.

(2) The samples or information must be provided to the Scottish Ministers within the time period set by them.

(3) At the request of the Scottish Ministers, the manufacturer must provide that manufacturer's technical expertise to facilitate any analysis of the samples.

(4) Nothing in this article shall be construed as requiring any person to answer any question or to provide any information if to do so might incriminate that person.

Offences by a body corporate

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

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

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

(2) If the affairs of a body corporate are managed by the members of that body, the provisions of paragraph (1) shall apply in relation to the acts and omissions of a member in connection with a management function of that member as if the member were a director of a body corporate.

(3) In this article—

“director” in relation to a body corporate whose affairs are managed by the members of that body means a member of the body; 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.

Enforcement

13.—(1) This Order shall be enforced by the local authority.

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

Revocations

14. The enactments specified in the first column of the Schedule are revoked to the extent specified in the corresponding entry in the third column of the Schedule.

St Andrew's House,
Edinburgh
2nd June 2008

RICHARD LOCHHEAD
A member of the Scottish Executive