
SCOTTISH STATUTORY INSTRUMENTS

2009 No. 232

The Brucellosis (Scotland) Order 2009

PART 1

Introductory provisions

Citation, commencement and extent

1.—(1) This Order may be cited as the Brucellosis (Scotland) Order 2009 and comes into force on 26th June 2009.

(2) This Order extends to Scotland only.

Interpretation

2.—(1) In this Order—

“the Act” means the Animal Health Act 1981;

“average price” means, for any given month, a price calculated in accordance with article 20;

“bovine animal” means domestic cattle of the genus *Bos*, species *Bubalus bubalis* or *Bison bison* but does not include a steer;

“brucellosis” means the disease caused by *Brucella abortus*, otherwise known as contagious abortion;

“heifer” means a young cow that has not had a calf;

“infected animal” means a bovine animal which is infected with brucellosis;

“premises” includes land, with or without buildings;

“market value” means—

(a) in the case of a bovine animal born before 1st August 1996, the higher of—

(i) the price which might reasonably have been obtained for it at the time of valuation from a purchaser in the open market if the animal were not an infected animal or a reactor, or, in the case of an animal exposed to brucellosis, had not been so exposed; or

(ii) the purchase price which would have applied had the animal been slaughtered in accordance with Commission Regulation (EC) No. 716/96 adopting exceptional support measures for the beef market in the United Kingdom, as amended^{MI}; and

(b) in the case of a bovine animal born on or after 1st August 1996, the price which might reasonably have been obtained for it at the time of valuation from a purchaser in the open market if the animal were not an infected animal or a reactor or, in the case of an animal exposed to brucellosis, had not been so exposed;

“milk” includes cream and separated or skimmed milk;

“reactor” means a bovine animal which gives rise to a reaction consistent with its being infected with brucellosis when tested for that disease;

Status: Point in time view as at 26/06/2009.

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“steer” means a castrated male aged 4 months or over; and

“veterinary inspector” means a veterinary inspector appointed by the Scottish Ministers.

(2) For the purpose of this Order the animals comprised in a herd include—

(a) any bovine animal which is isolated on the premises on which the herd is kept for the purpose of its being incorporated in the herd; and

(b) any bovine animal which is temporarily removed from the herd.

(3) Any notice, approval or licence issued under this Order must be in writing, may be issued subject to conditions and may be amended, suspended, withdrawn or revoked in writing at any time.

(4) A reference in this Order to any notice, approval or licence specified in paragraph (3) includes a reference to an electronic communication, as defined in section 15(1) of the Electronic Communications Act 2000 ^{M2}, which has been recorded and is consequently capable of being reproduced.

Marginal Citations

M1 O.J. No. L 99, 20.4.96, p.14, as last amended by Commission Regulation (EC) No. 2109/2005 (O.J. No. L 337, 22.12.2005, p.25).

M2 2000 c. 7; amended by paragraph 158 of Schedule 17 to the [Communications Act 2003 \(c. 21\)](#).

Extension of definition of “disease” and power to slaughter on account of brucellosis

3. For the purposes of the Act (slaughter in other diseases), the definition of “disease” in section 88(1) of the Act is extended to include brucellosis, and section 32 of the Act applies to that disease.

PART 2

Movement

Restrictions on the movement of bovine animals or steers

4. Where a veterinary inspector reasonably believes that a bovine animal kept on any premises is or may be infected with brucellosis, the veterinary inspector may serve a notice on the owner or occupier of the premises, prohibiting the movement of bovine animals or steers on to or off such premises, except under the authority of a licence issued by a veterinary inspector.

Movement of bovine animals or steers to specified premises

5.—(1) A veterinary inspector may, where that inspector considers it necessary for the purpose of eradicating brucellosis, serve a notice on the owner or keeper of bovine animals or steers kept on any premises, requiring the animals to be moved from the premises to such other premises and within such time limit as may be specified in the notice.

(2) Where a notice served in accordance with paragraph (1) is in force, the owner or keeper of such animals must not move them from the premises specified in the notice except under the authority of a licence issued by a veterinary inspector.

(3) If any person on whom a notice under paragraph (1) is served fails to comply with it, the Scottish Ministers may, without prejudice to any proceedings for an offence arising out of such default, carry out or cause to be carried out the requirements of the notice, and any expenses reasonably incurred by the Scottish Ministers are recoverable by them from the person in default.

Animal waste

6. Where a notice has been served on the owner or occupier of any premises under article 4, no manure, slurry or other animal waste is to be removed from the premises except under authority of a licence issued by a veterinary inspector.

PART 3

Notification and testing

Sampling of milk

7.—(1) Any person who buys milk from the owner or keeper of a herd of dairy cows in Scotland for resale as milk or milk products must—

- (a) select an approved laboratory to carry out testing of such milk for brucellosis;
- (b) notify the Scottish Ministers of the laboratory selected;
- (c) once each month and at that person's own expense submit a sample of milk (which includes milk from all the dairy cows in that herd whose milk is available for sale) to that laboratory for testing for evidence of the existence of brucellosis;
- (d) add such preservative to the sample as may be requested by the person in charge of the laboratory; and
- (e) ensure that the sample is labelled with—
 - (i) a bar code or other device which enables the laboratory to identify the herd or part of a herd from which the sample was taken; and
 - (ii) the date on which the sample was taken.

(2) No person may in any way treat, other than by adding a preservative in accordance with paragraph (1)(d), or tamper with, any sample or its label, and a person is deemed to have treated or tampered with a sample or its label if that person does anything in relation to it which is likely to affect the result of the testing required under this article.

(3) The person in charge of an approved laboratory must—

- (a) maintain a record of the herds from which milk is sent for testing under paragraph (1);
- (b) notify the Scottish Ministers as soon as reasonably practicable if, in any month, a sample is not received from one of the herds listed in the records held under sub-paragraph (a);
- (c) notify the Scottish Ministers within 24 hours where a sample has been tested for evidence of the existence of brucellosis and the result is positive;
- (d) notify the Scottish Ministers within one month where a sample has been tested for evidence of the existence of brucellosis and the result is negative; and
- (e) maintain a record of the results of all the tests carried out for evidence of the existence of brucellosis for a period of one year from the date of the test.

(4) If any person fails to take any action required under the provisions of paragraph (1), a veterinary inspector may, without prejudice to any proceedings for an offence arising out of such default, take or cause to be taken such action, and any expenses reasonably incurred in so doing are recoverable by the Scottish Ministers from the person in default.

(5) In this article, “approved laboratory” means a laboratory approved by the Scottish Ministers to carry out testing of milk for brucellosis.

Testing of bovine animals or steers

8.—(1) The owner or keeper of bovine animals or steers kept on any premises must comply with a reasonable request by a veterinary inspector for facilities to examine, test or diagnose any bovine animal or steer for brucellosis, and in particular, must arrange for the collection, penning and securing of any such animal.

(2) If any person fails to comply with a reasonable request by a veterinary inspector under paragraph (1), the Scottish Ministers may, without prejudice to any proceedings for an offence arising out of such default, take or cause to be taken all such reasonable steps as may facilitate the examination, testing and diagnosis of bovine animals or steers for brucellosis, and any expenses reasonably incurred by the Scottish Ministers are recoverable from the person in default.

(3) Where the owner or keeper of bovine animals or steers kept on any premises arranges or permits any diagnostic test for brucellosis to be carried out on those animals, otherwise than on behalf of the Scottish Ministers, that person must notify the Scottish Ministers of—

- (a) any positive test result within 24 hours; and
- (b) any negative test result within one month.

(4) The owner or keeper of bovine animals or steers kept on any premises must not do, or cause to be done, anything which is likely to affect the result of a diagnostic test for brucellosis carried out on behalf of the Scottish Ministers.

Notification of abortion or premature calving

9.—(1) Where the owner or keeper of bovine animals kept on any premises reasonably believes that an abortion or premature calving has occurred, that person must within 24 hours—

- (a) give notice of that belief to a veterinary inspector; and
- (b) arrange for the isolation so far as practicable of the animal concerned and its foetus or calf and placenta from all other bovine animals and steers on the premises.

(2) Any owner or person subject to a duty under paragraph (1)(b) must ensure that an animal to which that paragraph relates remains in isolation, and its foetus or calf and placenta must be retained by the owner or keeper of the animal until such time as a veterinary inspector serves a notice requiring the disposal or destruction of the foetus or calf and placenta.

(3) If any person on whom a notice under paragraph (2) is served fails to comply with it, the Scottish Ministers may, without prejudice to any proceedings for an offence arising out of such default, carry out or cause to be carried out the requirements of the notice, and any expenses reasonably incurred by the Scottish Ministers are recoverable by them from the person in default.

(4) In this article, “abortion or premature calving” means an abortion or calving which takes place less than 271 days after service or insemination, or less than 265 days after implantation or transfer of an embryo, whether the calf is born dead or alive.

Notification of full-term calving in herds infected with brucellosis

10.—(1) Where an animal kept or formerly kept on any premises has reacted to a diagnostic test for brucellosis or where a veterinary inspector reasonably believes that brucellosis exists on any premises, the veterinary inspector may serve a notice on the owner or keeper of any bovine animal requiring that person to notify the Scottish Ministers within such period as may be specified in the notice, of any full-term calving which may occur among such animals.

(2) Where a notice has been served on any person under paragraph (1) and any full-term calving occurs among bovine animals to which such notice relates, the placenta and, if it dies at or after birth, the calf, must be retained by that person until such time as a veterinary inspector may by a further notice in writing require the disposal or destruction of the placenta and dead calf.

(3) If any person on whom a notice under paragraph (1) or (2) is served fails to comply with it, the Scottish Ministers may, without prejudice to any proceedings for an offence arising out of such default, carry out or cause to be carried out the requirements of the notice and any expenses reasonably incurred by the Scottish Ministers are recoverable by them from the person in default.

(4) In this article, “full-term calving” means a calving which takes place 271 days or more after service or insemination, or 265 or more days after implantation or transfer of an embryo, whether the calf is born dead or alive.

Restrictions on the use of semen

11. Where a veterinary inspector reasonably believes that a bovine animal kept on any premises is or may be infected with brucellosis, the veterinary inspector may serve a notice on the owner or occupier of such premises, prohibiting the use of semen from such an animal, or restricting its use.

Control of premises used by dealers for the keeping of bovine animals

12.—(1) No person may use premises for the keeping of bovine animals for or in connection with that person's business as a dealer in bovine animals unless that person has notified the Scottish Ministers in writing that the premises are to be so used.

(2) In this article, “a dealer in bovine animals” means any person whose trade or business regularly includes the selling of bovine animals purchased by that person for the purpose of resale within 28 days.

PART 4

Prevention of spread of infection

Precautions against the spread of infection

13.—(1) Where a veterinary inspector has certified that any bovine animal kept on any premises has reacted to a diagnostic test for brucellosis, the occupier of the premises must, on being given notice of the certification, take all reasonable steps to prevent the infection of bovine animals kept on adjoining premises by contact with bovine animals and steers kept on that occupier's premises.

(2) Where a veterinary inspector has certified that any bovine animal kept on any premises has reacted to a diagnostic test for brucellosis, or the veterinary inspector reasonably believes it is infected with that disease, the veterinary inspector may serve a notice on the owner or occupier of the premises requiring that person to ensure that milk from such animals is not fed to other animals on the same or any other premises unless it has been pasteurised, sterilised or ultra-heat treated.

(3) Where a veterinary inspector reasonably believes that any bovine animal kept or formerly kept on any premises is infected with brucellosis, or has been exposed to the risk of infection by that disease, the veterinary inspector may serve a notice on the owner or keeper of that animal requiring that person to—

- (a) arrange for the isolation of any animal or animals which may be specified in the notice on any part or parts of the premises so specified;
- (b) ensure that any part or parts of the premises specified in the notice are not be used by any animals on the premises, or by such animals as may be specified;
- (c) cleanse and disinfect with an approved disinfectant at that person's own expense such part or parts of the premises as may be specified in the notice, or any vehicle, plant or equipment before it leaves the premises;

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- (d) treat and store manure or slurry from any place which has been used by such an animal and to restrict the spreading of manure or the spraying of such slurry in accordance with the requirements of the notice;
- (e) burn, disinfect, bury or destroy any straw, litter or other matter which has, or might have, come into contact with such animal or its foetus, or calf and placenta, in accordance with the terms specified in the notice.

(4) A notice served in accordance with paragraph (3) may require the person upon whom it is served to ensure that any cow or heifer on the premises which is about to calve is isolated as far as practicable from all other bovine animals on the premises during the period of calving.

(5) Where a veterinary inspector reasonably believes that any bovine animal which is present at, or has been present at any slaughterhouse or other premises used for a show or exhibition, market, sale or fair is infected with brucellosis, the veterinary inspector may serve a notice on the owner or occupier of such slaughterhouse or premises, prescribing the manner in which any manure, slurry or other animal waste, straw, litter or other matter which has come into contact with any such animal, is disposed of.

(6) If any person on whom a notice under this article is served fails to comply with it, the veterinary inspector may, without prejudice to any proceedings for an offence arising out of such default, carry out or cause to be carried out the requirements of the notice, and any expenses incurred by the veterinary inspector are recoverable by the Scottish Ministers from the person in default.

(7) In this article, “approved disinfectant” means a disinfectant approved under the Diseases of Animals (Approved Disinfectants) (Scotland) Order 2008 ^{M3} as being approved for the time being against brucellosis.

Marginal Citations

M3 [S.S.I. 2008/219](#).

Shows, exhibitions and markets

14.—(1) Where a veterinary inspector reasonably believes that any bovine animal on any premises at which a show, exhibition, market, sale or fair is being held, is infected with, or has been exposed to the risk of infection with brucellosis, the veterinary inspector may require the animal to be removed from those premises, and the owner or keeper of such animal may choose to take it—

- (a) to a slaughterhouse for immediate slaughter for which no compensation will be payable;
- (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 the veterinary inspector may direct.

(2) A bovine animal may only be removed under sub-paragraphs (b) and (c) of paragraph (1) on condition that it is immediately put into isolation for a period to be terminated by a notice served by a veterinary inspector on the owner or keeper of the animal.

Control of infection from other animals

15.—(1) Where a veterinary inspector reasonably believes that an animal kept on any premises is or may be infected with brucellosis, that inspector may by notice 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 to 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

Notice of intended slaughter

16.—(1) Where the Scottish Ministers propose to cause bovine animals or steers to be slaughtered under section 32 of the Act in its application to brucellosis, a veterinary inspector must serve a notice of intended slaughter on the owner or keeper of the animal informing that person of the proposed slaughter and requiring the animal to be detained pending slaughter and to be isolated as far as practicable from such other animals as may be specified.

(2) The person on whom such a notice has been served must ensure that the animal is not moved, or caused or permitted to be moved except under the authority of a licence issued by a veterinary inspector.

Assistance in securing animals

17.—(1) Where the Scottish Ministers propose to cause a bovine animal or steer to be slaughtered under article 16, the owner or keeper of the animal must comply with all reasonable requirements of a veterinary inspector for assistance in the collection, penning and securing of the animal for identification and inspection in connection with the ascertainment of its value.

(2) If the owner or keeper of a bovine animal or steer fails to comply with a reasonable requirement for assistance made under paragraph (1), the Scottish Ministers may, without prejudice to any proceedings for an offence arising out of such default, carry out or cause to be carried out such requirements, and any expenses reasonably incurred by the Scottish Ministers are recoverable by them from the person in default.

Compensation for animals slaughtered

18.—(1) Where the Scottish Ministers cause a bovine animal or steer to be slaughtered under section 32 of the Act in its application to brucellosis, they must pay compensation in accordance with this article, together with articles 19 and 20.

- (2) The compensation must be—
 - (a) where the slaughtered animal is an infected animal or a reactor, the lesser of—
 - (i) 75% of its market value, or
 - (ii) 93.75% of the average price in respect of the month which occurred 2 months prior to the month in which the market value of the animal was determined in accordance with article 19, rounded down to the nearest multiple of £4;
 - (b) where the slaughtered animal has been exposed to the infection of brucellosis but is not an infected animal or a reactor, an amount equal to its market value.

Ascertainment of market value

19.—(1) Notwithstanding the provisions of article 4 of the Diseases of Animals (Ascertainment of Compensation) Order 1959 ^{M4} the market value of a bovine animal or steer, for the purposes of payment of compensation under this Order, is to be determined—

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- (a) by agreement between the Scottish Ministers and the owner of the animal;
- (b) by agreement between 2 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 ^{M5}.

(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) must be paid by the Scottish Ministers.

(4) In this article a reference to a valuer shall be construed as a reference to an individual and not to a company or firm or 2 or more persons jointly.

Marginal Citations

M4 [S.I. 1959/1335](#).

M5 The Institute of Auctioneers and Appraisers in Scotland is the corporate body of Scotland's auctioneers and appraisers and was founded in 1926.

Ascertainment of average price

20.—(1) The average price of a bovine animal or steer, for the purposes of payment of compensation under this Order, is to be calculated for each month by the Scottish Ministers from data, collected from markets in Scotland, relating to the sale prices of commercial grade fresian cows and heifers in milk and in calf.

(2) Subject to paragraph (3), the average price is the amount obtained by dividing the sum of those sale prices by the total number of animals for which sale price data has been collected.

(3) Where, in respect of any given month, no such data is available, or the Scottish Ministers consider that the available data is inadequate, the average price for the month is the most recently ascertained average price.

(4) The Scottish Ministers must take such steps as they consider appropriate for the purpose of bringing to the notice of persons concerned the average price in respect of each month.

PART 6

Ancillary, administration and enforcement

Restrictions on vaccination and therapeutic treatment

21.—(1) No person other than—

- (a) a veterinary inspector;
- (b) a veterinary surgeon authorised by the Scottish Ministers; or
- (c) a person to whom a licence has been issued for the purpose by a veterinary inspector,

may vaccinate bovine animals against brucellosis.

(2) No person may treat bovine animals for brucellosis.

(3) In this article, “veterinary surgeon” means a veterinary surgeon or veterinary practitioner registered under the Veterinary Surgeons Act 1966 ^{M6}.

Marginal Citations

M6 1966 c. 36; amended by S.I. 1988/526, 1991/1412 and 2002/1479.

Marking of bovine animals and steers

22.—(1) The owner or keeper of bovine animals or steers kept on any premises must, if so required by a veterinary inspector, mark those animals in a manner specified by the veterinary inspector.

(2) A veterinary inspector may paint, stamp, clip or otherwise mark bovine animals or steers kept on any premises.

(3) No person may without reasonable cause alter, remove, obliterate or deface or attempt to alter, remove, obliterate or deface any such mark.

Licences

23.—(1) A licence granted under this Order may be—

- (a) subject to conditions necessary to prevent the spread of Brucellosis; and
- (b) amended, suspended or revoked at any time.

(2) A person moving anything under the authority of a specific licence must—

- (a) carry the licence or a copy of it at all times during the movement;
- (b) on demand by an inspector, a veterinary inspector, an officer of the Scottish Ministers or a constable, furnish their name and address and produce the licence or copy and allow a copy or extract to be taken; and
- (c) keep the licence for at least 6 months after the movement.

(3) A licence granted in England or Wales for an activity which could be licensed under this Order shall, unless the Scottish Ministers direct otherwise, have effect in Scotland as if it were a licence granted under this Order.

Powers of veterinary inspectors and inspectors

24.—(1) For the purpose of this Order a veterinary inspector or an inspector, on producing if so required a duly authenticated document showing the veterinary inspector's or the inspector's authority, has a right at all reasonable times to enter any premises, other than any part of any premises occupied as a private dwelling.

(2) A veterinary inspector may—

- (a) inspect and examine any bovine animal or any carcase on the premises;
- (b) make such tests in relation to and take such samples from any bovine animal or carcase on the premises as may be required for the purpose of diagnosis;
- (c) examine any records in whatever form on the premises and take copies of those records; and
- (d) take such other person as the veterinary inspector considers necessary for any purpose in relation to this Order.

(3) An inspector may—

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- (a) inspect any bovine animal or any carcase on the premises;
- (b) examine any records in whatever form on the premises and take copies of those records;
and
- (c) take such other person as the inspector considers necessary for any purpose in relation to the enforcement of this Order.

Enforcement

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

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

Revocations

26. The instruments specified in the first column of the Schedule are revoked to the extent specified in the corresponding entry in the third column, subject to the savings provision in article 27.

Savings

27. The provisions of the Brucellosis and Tuberculosis Compensation (Scotland) Order 1978 ^{M7} continue to apply to any bovine animal for which compensation for brucellosis is determined before 26th June 2009 in accordance with article 3 of that Order.

Marginal Citations

M7 [S.I. 1978/1485](#); amended by [S.I. 1996/1358](#) and 1998/2181.

St Andrew's House,
Edinburgh
3rd June 2009

RICHARD LOCHHEAD
A member of the Scottish Executive

Status:

Point in time view as at 26/06/2009.

Changes to legislation:

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