

2009 No. 414

ANIMALS

ANIMAL HEALTH

**The Sheep and Goats (Records, Identification and Movement)
(Scotland) Order 2009**

Made - - - - - *24th November 2009*

Coming into force - - - - - *31st December 2009*

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The Scottish Ministers make the following Order in exercise of the powers conferred by sections 1, 8(1) and 83(2) of the Animal Health Act 1981^(a) and all other powers enabling them to do so.

PART 1

Introductory provisions

Citation, commencement and extent

1.—(1) This Order may be cited as the Sheep and Goats (Records, Identification and Movement) (Scotland) Order 2009 and comes into force on 31st December 2009.

(2) This Order extends to Scotland only.

Interpretation

2.—(1) In this Order—

“Annex” means the Annex to the Council Regulation;

“the Council Regulation” means Council Regulation (EC) No. 21/2004 of 17th December 2003 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^(b);

“critical control point” means a holding or a third party approved by the Scottish Ministers under section C.2 of the Annex;

“export” means sending to another Member State or a third country;

“flockmark” means the number allocated by the Scottish Ministers to a holding on which sheep are kept;

“herdmark” means the number allocated by the Scottish Ministers to a holding on which goats are kept;

“identification code” means the code applied or to be applied to a means of identification in accordance with the Council Regulation, this Order, any provision giving effect to the Council Regulation in England, Wales, Northern Ireland or another Member State, or previous United Kingdom Orders or Regulations;

“identification device” means an eartag, electronic eartag, pastern tag, electronic pastern tag or bolus approved by the Scottish Ministers;

“inspector” means a person appointed to be an inspector for the purposes of this Order by the Scottish Ministers or a local authority;

“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994^(c);

“means of identification” means an identification device or a tattoo;

“movement document” means the movement document required by Article 6 of the Council Regulation;

(a) 1981 c.22 (“the 1981 Act”). Section 8 was amended by paragraph 1 of schedule 2 to the Animal Health and Welfare (Scotland) Act 2006 (asp 11). The functions conferred upon “the Ministers” (as defined in section 86 of the 1981 Act) are now exercisable by the Scottish Ministers. They were transferred, insofar as within devolved competence, to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(b) O.J. No. L 5, 9.1.2004, p.8, amended by Council Regulation (EC) No. 1791/2006 (O.J. No. L 363, 20.12.2006, p.1), Commission Regulation (EC) No. 1560/2007 (O.J. No. L 340, 22.12.2007, p.25), Commission Regulation (EC) No. 933/2008 (O.J. No. L 256, 24.9.2008, p.5) and Commission Regulation (EC) No. 759/2009 (O.J. No. L 215, 20.8.2009, p.3).

(c) 1994 c.39, amended by the Environment Act 1995 (c.25), section 120(1) and Schedule 22, paragraph 232(1).

“previous United Kingdom Orders or Regulations” means—

- (a) the Sheep and Goats Identification (Scotland) Regulations 2000(a);
- (b) the Sheep and Goats Movement (Interim Measures) (Scotland) Order 2002(b);
- (c) the Sheep and Goats Identification (England) Order 2000(c);
- (d) the Sheep and Goats Identification and Movement (Interim Measures) (England) Order 2002(d);
- (e) the Sheep and Goats Identification and Movement (Interim Measures) (England) (No. 2) Order 2002(e);
- (f) the Sheep and Goats Identification and Movement (Interim Measures) (Wales) Regulations 2002(f);
- (g) the Sheep and Goats Identification and Movement (Interim Measures) (Wales) Order 2002(g);
- (h) the Sheep and Goats Identification and Movement (Interim Measures) (Wales) (No. 2) Order 2002(h);
- (i) the Identification and Movement of Sheep and Goats Order (Northern Ireland) 1997(i);
- (j) the Identification and Movement of Sheep and Goats Order (Northern Ireland) 2004(j);
- (k) the Sheep and Goats (Records, Identification and Movement) Order (Northern Ireland) 2005(k);
- (l) the Sheep and Goats (Records, Identification and Movement) (Wales) Order 2006(l);
- (m) the Sheep and Goats (Identification and Traceability) (Scotland) Regulations 2006(m);
- (n) the Sheep and Goats (Records, Identification and Movement) (England) Order 2007(n);
- and
- (o) the Sheep and Goats (Records, Identification and Movement) (Wales) Order 2008(o);

“register” means the register required to be kept by Article 5 of the Council Regulation;

“slaughterhouse” means an establishment approved as a slaughterhouse in accordance with Article 3 of Regulation (EC) No. 854/2004 of the European the Scottish Parliament and of the Council of 29 April 2004 laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption(p);

“slaughterhouse operator” means a person carrying out the business of a slaughterhouse or the duly authorised representative of such a person; and

“unique number” means a number allocated by the Scottish Ministers which is unique to an animal in a flock or herd and contains up to 6 digits.

(2) Expressions in this Order which appear in the Council Regulation have the same meaning in this Order as they have for the purposes of the Council Regulation.

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- (a) S.S.I. 2000/418, amended by S.S.I. 2002/39 and 531 and revoked by S.S.I. 2006/73.
 - (b) S.S.I. 2002/38, amended by S.S.I. 2002/221 and revoked by S.I. 2006/73.
 - (c) S.I. 2000/2027, amended by S.I. 2001/281 and revoked by S.I. 2002/240.
 - (d) S.I. 2002/240, amended by S.I. 2002/764 and 1349 and revoked by S.I. 2002/2153.
 - (e) S.I. 2002/2153, amended by S.I. 2003/29 and 502 and revoked by S.I. 2005/3100.
 - (f) S.I. 2002/274 (W.30), amended by S.I. 2002/811 (W.91) and revoked by S.I. 2002/1354 (W.131).
 - (g) S.I. 2002/1357 (W.133), revoked by S.I. 2002/2302 (W.227).
 - (h) S.I. 2002/2302 (W.227), amended by S.I. 2003/167 (W.27), 946 (W.127) and 1966 (W.211) and revoked by S.I. 2006/1036 (W.106).
 - (i) S.R. (N.I.) 1997 No. 173, amended by S.R. (N.I.) 1998 No. 393.
 - (j) S.R. (N.I.) 2004 No. 491.
 - (k) S.R. (N.I.) 2005 No. 535 as amended by S.R. (N.I.) 2006 No. 508.
 - (l) S.I. 2006/1036 (W. 106), amended by S.I. 2006/2926 (W.261) and revoked by S.I. 2008/130 (W.17).
 - (m) S.S.I. 2006/73, amended by S.S.I. 2006/594, 2007/559 and 2008/368 and revoked by S.S.I. 2009/415.
 - (n) S.I. 2007/3493.
 - (o) S.I. 2008/130 (W.17).
 - (p) O.J. No. L 139, 30.4.04, p.206.

(3) Any reference in this Order to anything done in writing or produced in written form, other than under article 28, includes a reference to an electronic communication which has been recorded and may subsequently be used for reference, as defined in the Electronic Communications Act 2000(a).

Competent authority

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

Authorisations

4.—(1) Subject to paragraph (2), any authorisations, approvals or permissions issued under the Council Regulation or this Order must be in writing, may be made subject to conditions and may be amended, suspended or revoked by notice in writing at any time.

(2) An authorisation, approval or permission may be issued otherwise than in writing where this is necessary to prevent suffering to an animal.

PART 2

Application of identification

Identification applied on or after 31st December 2009

5.—(1) The keeper of—

- (a) an animal born on or after 31st December 2009; or
- (b) an animal born before 31st December 2009 which does not bear a means of identification applied under any of the previous United Kingdom Orders or Regulations,

must comply with Article 4(1) (first paragraph) and (2)(a) and (b) and Article 9(3) of the Council Regulation and this article unless the alternative identification method set out in article 6 is used.

(2) No animal may be identified by the use of a bolus in combination with a tattoo.

(3) The period determined for the purposes of Article 4(1) of the Council Regulation is—

- (a) 9 months from its date of birth, in the case of an animal kept in extensive or free range farming conditions; or
- (b) 6 months from its date of birth, in the case of any other animal.

(4) The individual identification code for the purposes of Section A.2 of the Annex is the following information in the following order—

- (a) the letters “UK”, or, on an electronic identification device, the number “0826”; and
- (b) a 12 digit number approved by the Scottish Ministers,

which must be identical on the first and second means of identification.

Alternative method of identification for animals intended for slaughter before the age of 12 months

6. In accordance with Article 4(3) of the Council Regulation, the keeper of an animal intended for slaughter before the age of 12 months and not intended for export may apply to the animal the alternative method of identification in Section A.7 of the Annex.

(a) 2000 c.7, amended by the Communications Act 2003 (c.21), sections 406 and 411(2) and (3) and Schedule 17, paragraph 158.

Identification for animals no longer intended for slaughter before the age of 12 months

7.—(1) The keeper of an animal to which the alternative method of identification is applied under article 6 which—

- (a) is not slaughtered before the age of 12 months; or
- (b) is to be consigned for export before the age of 12 months,

must be identified in accordance with points 1 to 4 of Section A of the Annex.

(2) The keeper may re-identify an animal identified under article 6 only if—

- (a) the animal is on its holding of birth;
- (b) the animal has moved to its present holding directly from its holding of birth or from its holding of birth via a market; or
- (c) the keeper has a complete record of all the animal's movements.

(3) In the case of an animal not slaughtered before the age of 12 months, the second means of identification must be applied when the animal reaches the age of 12 months.

(4) In the case of an animal to be consigned for export before the age of 12 months, the second means of identification must be applied before the animal leaves the holding from which it is consigned for export.

Animals identified before 31st December 2009

8. The keeper of an animal which bears a means of identification applied before 31st December 2009 which does not contain an individual identification code or unique number must apply to the animal before it leaves the holding on which it is located at that date—

- (a) in the case of an animal on its holding of birth a first and second means of identification meeting the requirements of Article 4(2)(a) and (b) and Article 9(3) of the Council Regulation; and
- (b) in the case of an animal not on its holding of birth, 2 replacement means of identification of which one must be a red replacement eartag.

Animals sent for export

9.—(1) A keeper must identify all animals consigned for export in accordance with Article 4(2)(a) and (b) and Article 9(3) of the Council Regulation.

(2) The keeper of an animal consigned for export which bears means of identification containing different individual identification codes must apply to the animal an eartag containing the same individual identification code as one of the existing means of identification.

(3) The means of identification to be applied under this article must be applied, at the latest, before the animal leaves the holding from which it is consigned for export.

(4) A keeper must ensure that all animals consigned for export comply with the requirements of Article 4a of Council Directive 91/68/EEC of 28 January 1991 on animal health conditions governing intra-Community trade in ovine and caprine animals(a).

Animals imported from third countries

10.—(1) The keeper of an animal imported from a third country must comply with Article 4(4) of the Council Regulation and this article.

(2) The period for identifying such an animal for the purposes of Article 4(4) of the Council Regulation is 14 days.

(a) O.J.No.L 46, 19.2.1991, p.19, last amended by Council Directive 2008/73/EC (O.J. No. L 219, 14.8.2008, p.40).

(3) The means of identification for animals imported from a third country must be the same as that set out in Article 4(2)(a) and (b) and Article 9(3) of the Council Regulation and the identification code for the purposes of Section A.2 of the Annex is—

- (a) the letters “UK”; and
- (b) a 12 digit number in accordance with a numbering scheme approved by the Scottish Ministers.

(4) Where an animal is imported from a third country and re-identified according to this article, the keeper must record information about the addition of the new means of identification in the register together with the full identification code on the new means of identification and the full code on the method of identification applied in the third country.

Receipt of animals from another Member State

11.—(1) No person may receive an animal from another Member State unless it is identified in accordance with—

- (a) in the case of an animal born after 9th July 2005, the Council Regulation; or
- (b) in the case of an animal born on or before 9th July 2005, Council Directive 92/102/EEC of 27 November 1992 on the identification and registration of animals(a).

(2) It is prohibited to remove or replace the original method of identification of an animal originating in another Member State in contravention of Article 4(5) of the Council Regulation.

Receipt of animals from England, Wales or Northern Ireland

12. No person may receive an animal from England, Wales or Northern Ireland unless it is identified and accompanied by a movement document in accordance with—

- (a) in the case of an animal born after 9th July 2005, the Council Regulation, including any derogation exercised under the Council Regulation; or
- (b) in the case of an animal born on or before 9th July 2005 the previous United Kingdom Orders or Regulations and any additional requirements imposed in legislation enforcing the Council Regulation in relation to those animals.

Loss of methods of identification applied in a third country

13. Where an animal is imported from a third country and identified in accordance with Article 4(4) of the Council Regulation, the keeper is not required to replace a method of identification applied in the third country if it subsequently becomes lost or illegible.

PART 3

Removal and replacement of identification

Removal and replacement of means of identification

14.—(1) A person must not remove, unless for the purpose of preventing suffering to an animal, or replace, any means of identification attached to an animal otherwise than in accordance with the first paragraph of Article 4(6) of the Council Regulation.

(a) O.J. No.L 355, 5.12.1992, p.32.

(2) Subject to article 27, where the means of identification of an animal has been removed or lost or has become illegible, the keeper, other than a slaughterhouse operator, must apply replacement identification to the animal in accordance with this Order as soon as possible but, in any event—

- (a) before the animal is moved from the holding; and
- (b) no later than 28 days after the identification is ascertained to have been removed or lost or to have become illegible.

Replacement identification

15.—(1) In accordance with the first paragraph of Article 4(6) of the Council Regulation where one of an animal's means of identification has been removed or lost or has become illegible the keeper, other than a slaughterhouse operator, must replace that means of identification with—

- (a) a means of identification bearing the same identification code; or
- (b) remove the remaining identification device, re-identify the animal and cross reference the old and new identification code in the holding register.

(2) Where both means of identification of an animal has been removed or lost or has become illegible the keeper, other than a slaughterhouse operator, must replace that means of identification in accordance with article 5 and, if known, cross reference the old and new identification code in the holding register.

(3) If the animal is no longer on its holding of birth, or it is unknown if the animal is on its holding of birth, the keeper must use a red means of identification.

Replacement identification for animals identified according to article 7

16.—(1) Where an animal identified in accordance with article 7 loses its eartag and is on its holding of birth, the keeper must replace the eartag with an eartag bearing the same flockmark or herdmark of that holding.

(2) Where an animal identified in accordance with article 7 loses its eartag and is not on its holding of birth, or if the keeper does not know if it is on its holding of birth, the keeper shall replace the eartag with a red eartag bearing the flockmark or herdmark of the holding the animal is now on.

Removal or replacement identification for animals identified before 31st December 2009

17.—(1) A person must not remove, unless for the purpose of preventing suffering to an animal, or replace, any means of identification attached to an animal identified before 31st December 2009 otherwise than in accordance with the first paragraph of Article 4(6) of the Council Regulation.

(2) Subject to article 27, where the means of identification of an animal has been removed or lost or has become illegible, the keeper, other than a slaughterhouse operator, must apply replacement identification to the animal in accordance with this Order as soon as possible but, in any event—

- (a) before the animal is moved from the holding; and
- (b) no later than 28 days after the identification is ascertained to have been removed or lost or to have become illegible.

Replacement of a single identification mark on a double-tagged animal

18.—(1) Where a keeper is required by article 14 to replace a single lost or illegible identification mark on a double tagged animal, the keeper may do so with a means of identification with an identical identification code.

(2) A keeper may, as an alternative to the method of replacement described in paragraph (1), instead, subject to article 30, remove any remaining tag and identify it in accordance with Article 4(1) (first paragraph) and (2)(a) and (b) and Article 9(3) of the Council Regulation.

(3) If an animal to be re-identified under paragraph (2) has a metal tag the keeper must not remove that tag but the identification code it bears must not be used in all further recordings of the animal's identity.

(4) A keeper may replace the identification mark of an animal in the manner described in paragraph (2) even when no replacement is required by article 14.

(5) A keeper may, as an alternative to the method of replacement described in paragraph (2) instead, subject to article 30 remove the remaining tag and replace it with 2 non-electronic red tags bearing the same unique number.

(6) When an animal is re-identified and is not on its holding of birth the keeper shall record in the holding register both the old identification, if known, and the new identification.

Replacement of identification marks on animals with no remaining means of identification

19. Where the keeper is required to replace a means of identification on an animal bearing no means of identification, the keeper must replace the lost means of identification with—

- (a) means of identification bearing the same unique number as the lost means of identification;
- (b) 2 non-electronic means of identification, both bearing the same number; or
- (c) the means of identification specified in Article 4(1) (first paragraph) and (2)(a) and (b) and Article 9(3) of the Council Regulation.

Identification of goats not identified before 31st December 2009

20.—(1) Where a goat is on its holding of birth and has not been identified before 31st December 2009, the keeper must identify it within the time limits specified in article 5(3) with—

- (a) the means of identification specified in Article 4(1) (first paragraph) and (2)(a) and (b) and Article 9(3) of the Council Regulation;
- (b) 2 eartags;
- (c) an eartag and a pastern mark; or
- (d) an eartag and a tattoo.

(2) The identification code on any means of identification described in paragraph (1) must be—

- (a) the letters “UK”; and
- (b) a 12 digit number in accordance with a numbering scheme approved by the Scottish Ministers,

which must be identical on the first and second means of identification.

Re-identification of goats

21. Goats identified in accordance with article 20 may be re-identified in accordance with article 5.

PART 4

Documentation and recording of information

Holding registers

22.—(1) The keeper of an animal, other than a person concerned only in transporting animals, must comply with Article 4(4) and Article 5(1), (3) and (5) of the Council Regulation.

(2) When an animal is moved onto or from its holding, the keeper must record—

- (a) the information required by Section B of the Annex; and
- (b) the number of animals moved.

(3) The information referred to in paragraph (2) in respect of animals moving onto a holding must be recorded by the keeper by entering it in the register but individual identification codes of each animal may, alternatively, be recorded by retaining a duplicate or certified copy of the movement document.

(4) The information referred to in paragraph (2) in respect of animals moving from a holding must be recorded by the keeper by either—

- (a) entering it in the register; or
- (b) retaining a duplicate or a certified copy of the movement document and keeping such a duplicate or copy with the register.

(5) For the purposes of Article 5(3) of the Council Regulation the register must be—

- (a) in a form approved by the Scottish Ministers;
- (b) available for 3 years from the last day when an animal referred to in the register dies or leaves the holding;
- (c) in the case of the movement of an animal onto or from a holding, recorded by the keeper within 48 hours of the movement;
- (d) in the case of identifying an animal born on a holding or an animal that dies on the holding, recorded by the keeper within 48 hours of the event; and
- (e) in the case of any replacement means of identification applied to an animal, recorded by the keeper within 48 hours of it being applied detailing the date of re-identification.

(6) Where a keeper moves animals to another holding but continues to be the keeper, the keeper does not have to keep the register on that holding but must be able to produce it within a reasonable amount of time to the Scottish Ministers or an officer of the Scottish Ministers upon request.

(7) When an animal is re-identified and is not on its holding of birth, the keeper shall record in the holding register both the old identification, if known, and the new identification.

Movement documents

23.—(1) The keeper of an animal must comply with Article 6(1) of the Council Regulation and keep and complete the movement document in accordance with this article, except that the identification codes of the animals moved may be recorded at a critical control point.

(2) Subject to article 28, the movement document must—

- (a) be in a form approved by the Scottish Ministers;
- (b) be completed in full by the appropriate keeper, as specified in that form; and
- (c) contain—
 - (i) the information required by Section C of the Annex; and
 - (ii) the date of an animal's arrival at the holding of destination.

(3) In accordance with Article 6(3) of the Council Regulation, a copy of the movement document must be kept at the holding from which an animal is moved and at the holding of destination for a period of at least 3 years from the date of the movement it records.

Inventory

24. For the purposes of Article 7(2) of the Council Regulation, a keeper who keeps animals permanently must make an annual inventory of the number of animals on that keeper's holding within 30 days of a date specified by the Scottish Ministers.

Supply of information for the central database

25. In accordance with Article 8(2) of the Council Regulation, the keeper of an animal must provide to the Scottish Ministers, in such manner and form as the Scottish Ministers may specify, the information required for the purposes of Article 7(2) and Article 8(1) of the Council Regulation—

- (a) within 30 days in the case of information relating to the keeper or the holding;
- (b) within 3 days in the case of information relating to movement of animals; and
- (c) within 48 hours in the case of animals that move through premises in accordance with Article 6 and Section C.2 of the Annex.

PART 5

Markets

Traceability

26.—(1) An operator of a market must have in place a system to ensure that, at all times that an animal is at the market, the holding from which the animal was moved to the market can be ascertained.

(2) The system must provide for the division of animals into batches, each of which has allocated to it a lot number which is unique to that batch.

(3) The operator of the market must enter the date of sale for which the animal entered the market and the lot number of the last batch to which the animal belonged before leaving the market—

- (a) in the register; and
- (b) on the movement document.

Replacement identification of animals at markets

27.—(1) Articles 14 to 19 of this Order do not apply to an operator of a market.

(2) Where the means of identification of an animal on its way to or at a market has been removed or lost or has become illegible, the keeper at the holding of destination of that animal must apply replacement identification to the animal in accordance with article 15 as soon as possible but, in any event—

- (a) before the animal is moved from that holding; and
- (b) no later than 28 days after the animal arrives at that holding.

Electronic movement documents

28. A market operator may complete an electronically generated movement document in any form provided that it—

- (a) contains the information described in Section C of the Annex, the date of the sale for which the animal entered the market and the lot number allocated under article 26(2);
- (b) contains the address of the holding of destination; and
- (c) is printed and signed by the market operator.

Contingency planning for power and equipment failure

29.—(1) Local authorities or officers of the Scottish Ministers may exempt market and slaughterhouse operators from the need to record—

- (a) an animal's unique number on a movement document;
- (b) an animal's unique number in a holding register; or
- (c) the numbers of animals in any batch bearing a particular flockmark or herdmark,

where a contingency plan has been agreed between the local authority and the market or slaughterhouse operator.

(2) A contingency plan agreed under paragraph (1) must set out the conditions which must be met by the market or a slaughterhouse operator and the circumstances in which, provided those conditions are met, the exemptions in paragraph (1) will apply.

(3) A contingency plan agreed under paragraph (1) must require a market or slaughterhouse operator to obtain the consent of the local authority on every occasion when that market or slaughterhouse operator wishes to apply the exemptions in paragraph (1).

PART 6

Identification devices

Approval of identification devices

30. Any means of identification used to comply with this Order must be of a type approved by the Scottish Ministers.

Supplementary information

31.—(1) In accordance with the second paragraph of Section A.2 of the Annex, at the request of a keeper, a manufacturer of approved means of identification may add supplementary information if the supplementary information is distinct from the identification code and the identification code remains legible at all times.

(2) A keeper may apply an additional tag to an animal but it must not contain the letters "UK" or a flockmark or herdmark issued by the Scottish Ministers.

Removal of metal eartags

32. No person may remove a metal eartag from the ear of an animal unless it is necessary to do so for the welfare of that animal.

Colour of identification devices

33.—(1) No person may attach a red identification device to any animal, other than a replacement identification device.

(2) Where a keeper re-identifies an animal and that animal is not on its holding of birth, or the keeper does not know the holding of birth, the keeper must use a red replacement identification device but the requirement to use a red identification device does not apply to the use of boluses.

(3) Where an animal is identified by means of a bolus and a second identification device that second device must be black and a black identification device may only be used in combination with a bolus.

(4) The characters on all identification devices must be a different colour to the background of the device and must be clearly legible.

Destruction of identification devices

34.—(1) The operator of a slaughterhouse, or any person who finally disposes of an identified animal carcase, must destroy, in a secure manner which prevents reuse, all identification devices on animals slaughtered or otherwise disposed of.

(2) Secure destruction includes the rendering of any identification device.

Emergency veterinary treatment

35. Any provision in this Order requiring the application of a means of identification to an animal before it is moved from a holding does not apply if the movement is for the purpose of emergency veterinary treatment.

Protection from suffering

36. Any provision in this Order requiring the application of a means of identification to an animal does not apply where applying the means of identification would cause unnecessary suffering to the animal.

Alteration of means of identification

37. No person may alter, obliterate or deface the information on any means of identification applied to an animal under—

- (a) the Council Regulation;
- (b) this Order or any provision giving effect to the Council Regulation in England, Wales, or Northern Ireland or another Member State;
- (c) any of the previous United Kingdom Orders or Regulations; or
- (d) the Council Directive (in the case of an animal marked in another Member State in accordance with that Directive).

PART 7

Miscellaneous

Powers of inspectors

38.—(1) An inspector may—

- (a) collect, pen and inspect any animal, and require the keeper to arrange for its collection, penning and securing;
- (b) require production of and examine any records in whatever form, and take copies of those records;
- (c) remove and retain any documents and records required to be kept under this Order;
- (d) have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been used in connection with any such records

mentioned in sub-paragraphs (b) and (c), and require any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material to afford such assistance as the inspector may reasonably require;

- (e) require, where records are kept by means of a computer, those records to be produced in a visible and legible form in which they may be taken away;
- (f) require production of any unused eartags and record their numbers;
- (g) remove and retain any unused eartags;
- (h) mark any animal or other thing for identification purposes; and
- (i) be accompanied by any representative of the European Commission acting for the purpose of the Council Regulation or any other person the inspector considers necessary for the enforcement of this Order.

(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.

Movement restrictions

39.—(1) An officer of the Scottish Ministers or an inspector may, by notice in writing served on any keeper of animals on a holding, prohibit or restrict the movement of any animal onto or off that holding, except under the authority of a licence, if the officer is satisfied that it is necessary for the enforcement of this Order.

(2) A notice served under this article may be amended or revoked by a further notice in writing at any time.

False information

40. No person may furnish information which that person knows to be false or misleading to any person acting in the execution of this Order.

Offences by bodies corporate

41.—(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 neglect on the part of—

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

that person as well as the body corporate is 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 its members, the provisions of paragraph (1) apply in relation to the acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body corporate.

(3) 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 and "body corporate" includes a Scottish partnership, 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

42.—(1) This Order is enforced by the local authority.

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

St Andrew's House,
Edinburgh
24th November 2009

RICHARD LOCHHEAD
A member of the Scottish Executive

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision for the administration and enforcement of 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) (“the Council Regulation”). Article 3 provides that the Scottish Ministers are the competent authority for the purpose of the Council Regulation.

Application of identification

Article 5 requires the application of two means of identification, including one electronic device, to an animal identified on or after 31st December 2009. Article 6 provides for animals that are not intended for export and intended for slaughter within 12 months of birth to be identified with a single means of identification. Article 7 provides for the re-identification of animals no longer intended for slaughter within 12 months of birth. Article 8 provides for animals identified before 31st December 2009 and article 9 provides for animals sent for export. Articles 10, 11 and 12 provide, respectively, for animals imported from third countries, the receipt of animals from another Member State and the receipt of animals from England, Wales or Northern Ireland. Article 13 provides for the loss of methods of identification applied in a third country.

Removal and replacement of identification

Articles 14 to 17 make provision for the removal or replacement of means of identification on animals identified under articles 5 or 6 and before 31st December 2009. Articles 18 and 19 provide for the replacement of a single means of identification on a double-tagged animal and where there are no remaining means of identification. Articles 20 and 21 provide for the identification of goats not identified before 31st December 2009 and the option to re-identify those goats in accordance with article 5.

Documentation and recording of information

Article 22 provides for the keeping of holding registers and article 23 provides for the completion of movement documents. The taking of an annual inventory of animals is required by article 24 and the supply of information for the central database is required by article 25.

Markets

Article 26 contains requirements for traceability systems in markets and article 27 provides that the obligation to replace identification on an animal in a market is on the keeper of the holding of destination. Article 28 provides for the use of electronic movement documents and article 29 provides for contingency planning for power or equipment failure.

Identification devices

Article 30 provides that the Scottish Ministers must approve identification devices and article 31 allows for identification devices to bear supplementary information. Article 32 provides that metal eartags may only be removed for welfare reasons. Article 33 sets out when identification devices of specific colours may be used and article 34 provides for the destruction of identification devices in slaughterhouses. Article 35 provides that any provision requiring identification before movement does not apply if the movement is for emergency veterinary treatment and article 36 provides that any provision requiring identification does not apply if it would cause unnecessary suffering. Article 37 makes it an offence to alter any means of identification.

Miscellaneous

Article 38 confers various powers on inspectors and article 39 enables inspectors to prohibit movements of animals to or from a holding. Articles 40 and 41 relate to the provision of false information and offences by bodies corporate. Article 42 provides that this Order is enforced by the local authority or the Scottish Ministers if so directed.

Breach of this Order is an offence under section 73 of the Animal Health Act 1981, punishable in accordance with section 75 of that Act.

A regulatory impact assessment of the effect that this instrument will have on the costs of business has been prepared. A copy has been placed in the Scottish Parliament Reference Centre. Copies can be obtained from the offices of the Scottish Government Rural Directorate at Pentland House, 47 Robb's Loan, Edinburgh EH14 1TY.

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2009 No. 414

ANIMALS

ANIMAL HEALTH

**The Sheep and Goats (Records, Identification and Movement)
(Scotland) Order 2009**

£5.50

130. 12/09. 19593.

ISBN 978-0-11-100715-0

