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SCOTTISH STATUTORY INSTRUMENTS

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**2012 No. 78**

**The Bovine Viral Diarrhoea (Scotland) Order 2012**

**PART 1**

**GENERAL PROVISIONS**

**Citation, commencement and extent**

1.—(1) This Order may be cited as the Bovine Viral Diarrhoea (Scotland) Order 2012 and comes into force on 1st April 2012.

(2) This Order extends to Scotland only.

**Interpretation**

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

“the 2007 Regulations” means the Cattle Identification (Scotland) Regulations 2007<sup>(1)</sup>;

“the Act” means the Animal Health Act 1981;

“approved laboratory” means a laboratory approved by the Scottish Ministers under article 4;

“approved veterinary surgeon” means a veterinary surgeon approved by the Scottish Ministers under article 6;

“bovine animal” means domestic cattle of the genus *Bos*, *Bubalus* or *Bison*;

“breeding bovine animal” means a bovine animal not forming part of a herd of bovine animals which, whether by natural, assisted or artificial means, is intended by its keeper to breed and no steps are taken to prevent or minimise the chances of its breeding;

“breeding herd” means a group of two or more bovine animals in which breeding, whether by natural, assisted or artificial means, is intended by its keeper to take place and no steps are taken to prevent or minimise the chances of such breeding;

“bulk milk sample” means a sample taken from a container of milk comprising milk from more than one bovine animal;

“BVD” means bovine viral diarrhoea;

“BVD finding” means, in relation to a breeding herd or breeding bovine animal in respect of which samples have been tested by the operator of an approved laboratory under article 13, the finding of—

- (a) negative for the presence of BVDV or, as the case may be, evidence of exposure to BVDV; or
- (b) not negative for the presence of BVDV or, as the case may be, evidence of exposure to BVDV,

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<sup>(1)</sup> S.S.I. 2007/174, amended by S.S.I. 2007/312 and 2011/412 and S.I. 2011/1043.

as determined by the operator under paragraph (1)(b)(i) of that article; and “negative” and “not negative”, in relation to BVD finding, are to be construed accordingly;

“BVDV” means BVD virus;

“CPH number” means the county parish holding number assigned to a holding or part of a holding by the Scottish Ministers;

“coming into force day” means the day on which this Order comes into force;

“Holding” means a holding or part of a holding to which a CPH number has been assigned;

“keeper” means, in relation to a breeding herd, a breeding bovine animal or a qualifying calf, the person who is in day-to-day charge of the herd, animal or calf; and that person remains the keeper where the herd, animal or calf is placed temporarily in the control of another person (including where it is placed in the control of a transporter);

“milk collector” means a person employed by, or contracted to, a dairy or other facility for the purpose of collecting milk for human consumption from the farm on which it is produced;

“milk recorder” means a person employed by, or contracted to—

- (a) a milk recording organisation which is a member of the International Committee of Animal Recording; or
- (b) the operator of an approved laboratory,

for the purpose of taking representative samples from individual bovine animals and bulk milk tanks;

“qualifying calf” means a calf of a bovine animal that is born otherwise than into a breeding herd or to a breeding bovine animal;

“separately managed group” means, within a breeding herd, any bovine animals that, for a period of two months or more graze or are housed together—

- (a) separately from any other animals in the herd; and
- (b) in sufficient proximity to each other to allow BVDV to circulate amongst them.

(2) Where anything under this Order is to be done in writing that includes an electronic communication, as defined in section 15(1) of the Electronic Communications Act 2000(2), which has been recorded and is consequently capable of being reproduced.

### **Extension of definition of “disease”**

3. For all the purposes of the Act, the definition of “disease” in section 88(1) of the Act is extended to include BVD.

### **Approval of laboratories**

4.—(1) The Scottish Ministers may approve any laboratory that they consider to be suitable for the purpose of testing samples submitted under article 7(2)(b) or 15(2)(b).

(2) Approval must be in writing and may be granted subject to such conditions as the Scottish Ministers may impose in respect of the laboratory on its operator.

(3) For the purpose of deciding whether to grant an approval under this article, the Scottish Ministers may require a laboratory to undergo such inspections and quality assurance testing as they consider necessary.

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(2) 2000 c.7. Section 15 was amended by the Communications Act 2003 (c.21), section 406 and Schedule 17, paragraph 158.

### **Suspension and termination of approval of laboratories**

5.—(1) The Scottish Ministers may by notice given to the operator of an approved laboratory suspend or revoke an approval granted under article 4 if—

- (a) they consider that the approved laboratory is no longer suitable for the purpose of carrying out testing of samples submitted to it under article 7(2)(b) or 15(2)(b); or
- (b) they have reason to believe that the conditions of its approval have not been, or are not being, complied with.

(2) For the purpose of deciding whether to suspend or revoke an approval under this article, the Scottish Ministers may require the laboratory to undergo such inspections and quality assurance testing as they consider necessary.

(3) Suspension of an approval under this article lasts for such period, or until such state of affairs exists, as the Scottish Ministers specify when suspending the approval.

(4) The operator of an approved laboratory may by notice given to the Scottish Ministers indicate that it no longer wishes approval, in which case the approval ceases to have effect.

### **Approval of veterinary surgeons**

6.—(1) The Scottish Ministers may approve any veterinary surgeon whom they consider to be suitable for the purposes of carrying out the functions in article 12.

(2) Approval must be in writing and may be subject to such conditions as the Scottish Ministers may impose.

(3) 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.

(4) The Scottish Ministers may by notice given to the veterinary surgeon suspend or revoke an approval granted under this article.

(5) Suspension of an approval under this article lasts for such period, or until such a state of affairs exists, as the Scottish Ministers specify when suspending the approval.

(6) An approved veterinary surgeon may by notice given to the Scottish Ministers indicate that the veterinary surgeon no longer wishes approval, in which case the approval ceases to have effect.

## **PART 2**

### **HERD SCREENING**

#### **Breeding Herds**

7.—(1) The keeper of a breeding herd or breeding bovine animal must, at the keeper's expense and unless the keeper has a reasonable excuse, comply with paragraph (2).

(2) The keeper must by each compliance deadline (set in accordance with articles 8 and 9)—

- (a) take (or arrange to have taken)—
  - (i) in the case of a breeding herd, a sample or samples as described in any one of the sub-paragraphs of paragraph (3);
  - (ii) in the case of a breeding bovine animal, a sample as described in any one of the sub-paragraphs of paragraph (4); and
- (b) in accordance with paragraph (6), submit (or arrange to have submitted) the sample or samples to an approved laboratory with which arrangements have been made for testing under article 13.

- (3) The samples described in this paragraph are—
- (a) a sample of milk comprising milk from all of the lactating bovine animals in the herd at the time and a sample of blood from each of the dry female bovine animals and in-calf heifers in the herd at the time;
  - (b) a sample of milk comprising milk from all of the first lactation bovine animals in the herd at the time (“first lactation bovine animal” means a dairy bovine animal that is lactating and has been pregnant once);
  - (c) a sample of blood from—
    - (i) each of 5 calves between the age of 9 and 18 months in the herd at the time, or, where the herd contains separately managed groups, each of 5 such calves from each such group at the time or, if there are fewer than 5 calves in the herd or any such group, each of the calves between the age of 9 and 18 months in the herd or group;
    - (ii) each of 10 calves between the age of 6 and 18 months in the herd at the time, or, where the herd contains separately managed groups, each of 10 such calves from each such group at the time or, if there are fewer than 10 calves in the herd or any such group, each of the calves between the age of 6 and 18 months in the herd or group; or
    - (iii) where there are no calves between the age of 6 to 18 months in the herd at the time, each of 5 bovine animals over the age of 18 months in the herd at the time, or, where the herd contains separately managed groups, from 5 such bovine animals from each such group at the time or, if there are fewer than 5 animals in the herd or any such group, each of the animals in the herd or that group, provided that all samples taken under this head are taken from animals which have not left the Holding since birth;
  - (d) subject to article 8, from each of the calves in the herd born since the immediately preceding compliance deadline either—
    - (i) an ear tag sample of tissue taken in accordance with paragraph (5); or
    - (ii) a sample of blood;
  - (e) subject to paragraph (9) and article 8, on four occasions occurring at intervals of not less than 80 days and not more than 100 days, a sample of milk comprising milk from all of the lactating bovine animals in the herd at the time whose milk is being taken for human consumption; and
  - (f) from each of the bovine animals in the herd at the time either—
    - (i) an ear tag sample of tissue taken in accordance with paragraph (5); or
    - (ii) a sample of blood.
- (4) The samples described in this paragraph are—
- (a) a sample of milk from the animal;
  - (b) an ear tag sample of tissue from the animal taken in accordance with paragraph (5); and
  - (c) a sample of blood from the animal.
- (5) An ear tag sample of tissue is taken in accordance with this paragraph if—
- (a) the tag used when the sample is collected is an ear tag applied under the 2007 Regulations; or
  - (b) the tag and the vessel for collecting the sample have an identical, pre-printed, identification number; and that identification number—
    - (i) in the case of a sample taken from an animal in a breeding herd, is used only once within the same herd; and

- (ii) in any case, is notified along with the animal's ear tag number required by paragraph (6)(b)(vi) when the sample is submitted.
- (6) A sample is submitted in accordance with this paragraph if—
- (a) it is submitted in accordance with such requirements as to storage, handling and timing as are indicated to be necessary for the effective testing of the sample by the operator of the laboratory to which the sample is to be submitted or, as the case may be, the instructions accompanying the kit used to take the sample; and
  - (b) it is accompanied by a notice containing the following information—
    - (i) the keeper's name and address;
    - (ii) by reference to the sub-paragraphs of paragraph (3) or (4), the description of the sample;
    - (iii) the date the sample was taken;
    - (iv) subject to paragraphs (7) and (8), a request for the sample to be tested for the presence of BVDV, or evidence of exposure to BVDV;
    - (v) the CPH number for the Holding on which the herd or animal is kept;
    - (vi) in the case of a sample described in paragraph (3)(c), (d) or (f), the ear tag numbers from ear tags applied under the 2007 Regulations to all animals from which the sample derives;
    - (vii) in the case of a sample described in paragraph (4), the ear tag numbers from the ear tags applied to the animal under the 2007 Regulations; and
    - (viii) any other information reasonably requested by the laboratory.
- (7) Where the keeper elects to submit (or arrange to have submitted) the sample described in paragraph (3)(b) or the samples described in paragraph (3)(c), the request under paragraph (6)(b)(iv) must be that a test for evidence of exposure to BVDV is carried out.
- (8) Where the keeper elects to submit (or arrange to have submitted) the samples described in paragraph (3)(d) or (f) or a sample described in paragraph (4), the request under paragraph (6)(b)(iv) must be that a test for the presence of BVDV is carried out.
- (9) Where the keeper of the breeding herd elects to submit (or arrange to have submitted) the samples described in paragraph (3)(e) and as a result of testing the first, second or third sample the approved laboratory determines the BVD finding as "not negative"—
- (a) the keeper is not required to submit the remaining sample or samples for testing; and
  - (b) the date of that determination is taken to be the date of compliance with paragraph (2).
- (10) Anything done by a previous keeper for the purposes of complying with paragraph (2) in relation to a particular compliance deadline may, if the current keeper so elects, be relied on by the current keeper for the purpose of determining compliance with that paragraph in relation to that compliance deadline.
- (11) The duties imposed by this article cease to apply in relation to a breeding herd or breeding bovine animal where the herd or animal ceases to exist.

### **First compliance deadline**

- 8.—(1) Subject to paragraph (2)—
- (a) the first compliance deadline is the date falling one calendar month after the day on which the herd or animal is kept in Scotland, as a breeding herd or breeding bovine animal, for 30 days in any period of one year beginning no earlier than the coming into force day; and
  - (b) in relation to that compliance deadline—

- (i) the reference in article 7(3)(d) to the immediately preceding compliance deadline is to be read as a reference to the day after the day on which the herd or breeding animal is kept in Scotland, as a breeding herd or bovine animal, for 30 days; and
- (ii) article 7(3)(e) does not apply.

(2) In relation to a herd or animal which is kept in Scotland as a breeding herd or breeding bovine animal for at least 30 days in the period beginning with the coming into force day and ending immediately before 1st January 2013—

- (a) the first compliance deadline is 1st February 2013; and
- (b) in relation to that compliance deadline—
  - (i) anything done between 1st December 2011 and the coming into force day which, had it been done on or after the coming into force day, could have been relied on for the purpose of compliance with article 7(2) or 13 is, if the keeper of the herd or animal so elects, to be treated as if done on the coming into force day;
  - (ii) the reference in article 7(3)(d) to the immediately preceding compliance deadline is to be read as a reference to the day after the day on which the herd or breeding animal is kept in Scotland, as a breeding herd or bovine animal, for 30 days; and
  - (iii) article 7(3)(e) applies only if the day after the day on which the herd or breeding animal is kept in Scotland, as a breeding herd or bovine animal, for 30 days occurs before 5th June 2012.

### **Subsequent compliance deadlines**

9.—(1) Subject to paragraphs (2) and (3)—

- (a) the second compliance deadline for the purposes of article 7 is the date falling 13 calendar months after the first compliance deadline; and
- (b) compliance deadlines subsequently occur on the date falling 13 calendar months after the immediately preceding compliance deadline.

(2) Where in any case article 7(2) is complied with before a compliance deadline, the date of compliance is substituted as the starting point for the determination of the next compliance deadline in relation to the breeding herd or breeding bovine animal concerned.

(3) Where a herd or animal is kept in Scotland as a breeding herd or breeding bovine animal for less than 30 days in the period between two compliance deadlines—

- (a) the keeper does not have to comply with article 7(2) in relation to the later of those compliance deadlines; and
- (b) the herd or animal is treated, as at the later of those compliance deadlines, as not previously having been kept in Scotland.

### **Persons authorised to take milk samples**

10.—(1) The following persons may, for the purposes of this Order, take a milk sample from a bovine animal—

- (a) a veterinary surgeon;
- (b) a veterinary nurse authorised to do so by a veterinary surgeon; and
- (c) a milk recorder.

(2) The following persons may, for the purposes of this Order, take a bulk milk sample—

- (a) a veterinary surgeon;

- (b) a veterinary nurse authorised to do so by a veterinary surgeon;
- (c) a milk recorder; and
- (d) a milk collector.

(3) Where a milk collector takes a bulk milk sample for the purposes of paragraph (2), that collector may do so only from a bulk milk tank.

### **Decision on type of sample to take**

**11.**—(1) A decision to take and submit (or arrange to have taken and submitted) a sample or samples described in any of the following provisions may be taken by the keeper of a breeding herd or breeding bovine animal without consulting a veterinary surgeon:—

- (a) article 7(3)(b);
- (b) article 7(3)(d)(i);
- (c) article 7(3)(e);
- (d) article 7(3)(f)(ii);
- (e) article 7(4)(a);
- (f) article 7(4)(b);
- (g) article 7(4)(c).

(2) A decision to take and submit (or arrange to have taken and submitted) any other samples must be agreed between the keeper and a veterinary surgeon.

### **Change of BVD finding by approved veterinary surgeon**

**12.**—(1) An approved veterinary surgeon may, on behalf of the keeper of a breeding herd, by notice inform the Scottish Ministers of a change in BVD finding to “negative” where, following a determination of the finding as “not negative”, the veterinary surgeon reasonably considers that—

- (a) appropriate follow-up testing has been carried out to identify individual animals infected with BVDV; and
- (b) either—
  - (i) no such animals could be identified; or
  - (ii) animals so identified have been removed from the herd.

(2) Notice under paragraph (1) is, where the follow-up testing identified animals infected with BVDV, to include the ear tag numbers from ear tags applied under the 2007 Regulations to all such animals.

(3) An approved veterinary surgeon may, on behalf of the keeper of a breeding bovine animal, by notice inform the Scottish Ministers of a change in BVD finding to “negative” where, following a determination of the status as “not negative”, the veterinary surgeon reasonably considers that appropriate further testing has been carried out which shows that the animal is now “negative”.

(4) Notice under paragraph (3) is to include the ear tag numbers from the ear tags applied to the animal under the 2007 Regulations.

## PART 3

### LABORATORIES

#### **Duties of operators of approved laboratories**

**13.**—(1) Where the keeper of a breeding herd or a breeding bovine animal has in accordance with article 7(2)(b) arranged for the testing of a sample or samples by an approved laboratory and the sample has or samples have been submitted to the laboratory, the operator of the laboratory must, unless the operator has a reasonable excuse—

- (a) test the sample or samples in accordance with the request under article 7(6)(b)(iv) which accompanied the sample or samples when it was or they were submitted; and
- (b) subject to paragraph (3)—
  - (i) make a finding in relation to the herd or animal of negative or not negative for the presence of BVDV or, as the case may be, evidence of exposure to BVDV;
  - (ii) by notice inform the keeper of the finding; and
  - (iii) by notice inform the Scottish Ministers, within 40 days of testing the sample or samples under sub-paragraph (a), of the matters mentioned in paragraph (2).

(2) The matters mentioned in this paragraph are—

- (a) the keeper's name and address;
- (b) by reference to the sub-paragraphs of article 7(3) or (4), the description of the sample or samples;
- (c) the date the sample was or the samples were taken;
- (d) the date the sample was or the samples were tested;
- (e) whether the sample was or the samples were tested for the presence of BVDV or evidence of exposure to BVDV;
- (f) the CPH number for the Holding on which the herd or animal is kept;
- (g) in the case of a sample or samples described in article 7(3)(d) or (f), the ear tag numbers from ear tags applied under the 2007 Regulations to all animals from which the sample derives or the samples derive;
- (h) in the case of a sample described in article 7(4)(b) or (c), the ear tag numbers from the ear tags applied to the animal under the 2007 Regulations; and
- (i) the finding under paragraph (1)(b)(i).

(3) In relation to the samples described in article 7(3)(e), the operator of the laboratory—

- (a) may make a finding of “negative” under paragraph (1)(b)(i)—
  - (i) only after it has tested under paragraph (1)(a) each of the 4 samples which the keeper is required to submit; and
  - (ii) only if in respect of each of the samples that determination is negative for evidence of exposure to BVDV; and
- (b) in such a case, is to give notice under paragraph (1)(b)(iii) within 40 days of the testing of the last of the 4 samples.

(4) The duties imposed by this article cease to apply in relation to a breeding herd or breeding bovine animal where the herd or animal ceases to exist.



### **Approved laboratories - record keeping and disclosure**

14.—(1) The operator of an approved laboratory must maintain a record of any test carried out under this Order for three years from the date of such a test.

(2) The operator of the approved laboratory must, if requested by notice by the Scottish Ministers to do so, provide Scottish Ministers with such records.

## **PART 4**

### **CALVES BORN OTHER THAN INTO BREEDING HERDS OR TO A BREEDING ANIMAL**

#### **Qualifying calves**

15.—(1) The keeper of a qualifying calf must, at the keeper's expense and unless the keeper has a reasonable excuse, comply with paragraph (2).

(2) The keeper of the qualifying calf must—

(a) before the calf is 40 days old take (or arrange to have taken)—

(i) an ear tag sample of tissue taken in accordance with paragraph (3); or

(ii) a sample of blood; and

(b) in accordance with paragraph (4), submit (or arrange to have submitted) the sample to an approved laboratory with which arrangements have been made for testing for the presence of BVDV.

(3) An ear tag sample of tissue is taken in accordance with this paragraph if—

(a) the tag used when the sample is collected is an ear tag applied under the 2007 Regulations; or

(b) the tag and the vessel for collecting the sample have an identical, pre-printed, identification number; and, where ear tags have been applied to the calf, that identification number is notified along with the calf's ear tag number required by paragraph (4)(b)(iv) when the sample is submitted.

(4) A sample is submitted in accordance with this paragraph if—

(a) it is submitted in accordance with such requirements as to storage, handling and timing as are indicated to be necessary for the effective testing of the sample by the operator of the laboratory to which the sample is to be submitted or, as the case may be, the instructions accompanying the kit used to take the sample; and

(b) it is accompanied by a notice containing the following information—

(i) the keeper's name and address;

(ii) the date the sample was taken;

(iii) the CPH number for the Holding on which the calf is kept;

(iv) where applied, the ear tag numbers from ear tags applied to the calf under the 2007 Regulations; and

(v) any other information reasonably requested by the laboratory.

(5) Anything done by a previous keeper for the purposes of complying with paragraph (2) may, if the current keeper so elects, be relied on by the current keeper for the purpose of determining compliance with that paragraph.

(6) No person may move a qualifying calf from the Holding on which it is born before a sample has been taken from it under paragraph (2), unless the movement is necessary for securing the welfare of the calf.

#### **Duties of operators of approved laboratories – qualifying calves**

**16.** Where the keeper of a qualifying calf has in accordance with article 15(2)(b) arranged for the testing of a sample by an approved laboratory and the sample has been submitted to the laboratory the operator of the laboratory must, unless the operator has a reasonable excuse—

- (a) test the sample submitted for the presence of BVDV;
- (b) by notice inform the keeper of the results of the test, clearly indicating to the keeper whether the result is positive or negative for the presence of BVDV; and
- (c) by notice inform the Scottish Ministers within 40 days of testing the sample under paragraph (a) of—
  - (i) the keeper’s name and address;
  - (ii) the date the sample was taken;
  - (iii) the date the sample was tested;
  - (iv) the result of the test;
  - (v) the CPH number for the Holding on which the calf is kept; and
  - (vi) where applied, the ear tag numbers from ear tags applied to the calf under the 2007 Regulations.

## PART 5

### BVD STATUS

#### **BVD status of a breeding herd or breeding bovine animal**

**17.—(1)** Every breeding herd and breeding bovine animal which has a current BVD finding has BVD status in accordance with this article.

(2) Subject to paragraph (3), the BVD status of a breeding herd or breeding bovine animal is the same as the current BVD finding for the herd or animal.

(3) During any period when the breeding herd or breeding bovine animal is kept on the same Holding as another breeding herd or breeding bovine animal which currently has a “not negative” BVD finding, the BVD status of the former breeding herd or breeding bovine animal is “not negative”.

#### **Notification where BVD finding is “not negative”**

**18.—(1)** This article applies where under article 13(1)(b)(ii) the keeper of a breeding herd or breeding bovine animal is informed that the herd or animal has a “not negative” BVD finding.

(2) The keeper must, unless the keeper has a reasonable excuse, give the keeper of any other breeding herd or breeding bovine animal which is kept on the same holding a notice of—

- (a) that finding; and
- (b) any change to that finding.

(3) Notice under paragraph (2) is to be within 7 days of the keeper being informed of the finding or change or, if later, the other herd or animal being first kept on the holding after the finding or change.

## PART 6

### ENFORCEMENT AND OFFENCES

#### **Enforcement**

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

(2) The Scottish Ministers may, in relation to particular cases or cases of a particular description, as they may direct, enforce this Order in place of the local authority.

#### **Powers of entry**

**20.**—(1) An inspector may, on producing a duly authenticated authorisation if requested, enter any premises, vehicle, vessel or trailer (except premises used wholly or mainly as a private dwelling house) at any reasonable hour for the purpose of enforcing this Order.

(2) A justice of the peace or sheriff may by signed warrant permit an inspector to enter premises, if necessary by reasonable force, if satisfied, on sworn information in writing, that—

- (a) there are reasonable grounds to enter those premises for the purpose of enforcing this Order; and
  - (b) any of the conditions in paragraph (3) are met.
- (3) The conditions referred to in paragraph (2)(b) are—
- (a) entry to the premises has been, or is likely to be, refused, and notice of intention to apply for a warrant has been given to the occupier;
  - (b) asking for admission to the premises, or giving such notice, would defeat the object of entry;
  - (c) entry is required urgently; or
  - (d) the premises are unoccupied or the occupier is temporarily absent.

(4) A warrant may be granted for a period of up to 3 months.

#### **Powers of inspectors**

**21.**—(1) An inspector entering any premises, vehicle, vessel or trailer may—

- (a) inspect any animal or thing there;
- (b) take samples;
- (c) carry out any inquiries, examinations or tests;
- (d) have access to, inspect and copy any documents or records (in whatever form they are held) relevant to this Order, and remove them to enable them to be copied;
- (e) inspect and check the operation of any computer and any associated apparatus or material that is or has been in use in connection with the records.

(2) Where an inspector has entered any premises, vehicle, vessel or trailer and it is not reasonably practicable to determine whether documents on those premises are relevant to this Order, the inspector may seize them to ascertain whether or not they are relevant.

(3) The inspector may—

- (a) take any necessary equipment or vehicle on to the premises; and
- (b) be accompanied by such other persons as the inspector considers necessary.

### **False information**

**22.** A person must not furnish information which that person knows to be false or misleading to a person acting in the execution of this Order.

### **Offences by bodies corporate**

**23.—**(1) Where an offence under the Act in relation to this Order is committed—

- (a) by a body corporate or a Scottish partnership or other unincorporated association;
- (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 offender commits the 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, the members;
- (b) in relation to a Scottish partnership, a partner; or
- (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.

St Andrew’s House,  
Edinburgh  
29th February 2012

*RICHARD LOCHHEAD*  
A member of the Scottish Executive