

2014 No. 63

ANIMALS

ANIMAL HEALTH

The Brucellosis (Scotland) Amendment Order 2014

Made - - - - *27th February 2014*
Laid before the Scottish Parliament *3rd March 2014*
Coming into force - - *1st April 2014*

The Scottish Ministers make the following Order in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a) and section 88(2) of the Animal Health Act 1981(b), and all other powers enabling them to do so(c).

Citation and commencement

1. This Order may be cited as the Brucellosis (Scotland) Amendment Order 2014 and comes into force on 1st April 2014.

Amendment of the Brucellosis (Scotland) Order 2009

2.—(1) Article 7 (sampling of milk) of the Brucellosis (Scotland) Order 2009(d) is amended as follows.

(2) In paragraph (1)—

- (a) for “dairy cows” where it first appears substitute “bovine animals”; and
- (b) for sub-paragraph (c) substitute—

“(c) at intervals of 3 months and at that person’s own expense, take (or arrange to have taken) a sample of milk comprising milk from all of the lactating bovine animals in the herd at the time and whose milk is available for sale;

(a) 1972 c.68 (“the 1972 Act”). Section 2(2) was amended by the Scotland Act 1998 (c.46), Schedule 8, paragraph 15(3) (which was amended by section 27(4) of the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”). Section 2(2) was also amended by section 27(1)(a) of the 2006 Act and by the European Union (Amendment) Act 2008 (c.7), Schedule, Part 1. The functions conferred upon the Minister of the Crown under section 2(2) of the 1972 Act, in so far as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998. The powers in section 2(2) of the 1972 Act are exercised in relation to article 2 of this Order.

(b) 1981 c.22 (“the 1981 Act”). The power in section 88(2) is exercised in relation to article 3 of this Order. The power to make Orders under this section was originally conferred on “the Ministers” (as defined in section 86(1) of the 1981 Act). The functions of the Ministers were, in so far as within devolved competence, transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(c) The powers to make this Order are exercised together by virtue of section 33(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 asp 10. The Order is subject to the negative resolution procedure by virtue of section 33(4) of that Act.

(d) S.S.I. 2009/232, amended by S.S.I. 2011/51.

- (ca) submit (or arrange to have submitted), at that person's own expense, any sample of milk taken under sub-paragraph (c) to that laboratory for testing for evidence of the existence of brucellosis;"

(3) After paragraph (1) insert—

“(1A) Any person who owns or keeps a herd of bovine animals in Scotland and who offers for sale processed milk or milk products derived from milk produced by that herd must—

- (a) select an approved laboratory to carry out testing of milk produced by that herd for brucellosis;
- (b) notify the Scottish Ministers of the laboratory selected;
- (c) at intervals of 3 months and at that person's own expense, take (or arrange to have taken) a sample of milk comprising milk from all of the lactating bovine animals in the herd at the time and whose milk is available for sale;
- (d) submit (or arrange to have submitted), at that person's own expense, any sample of milk taken under sub-paragraph (c) to that laboratory for testing for evidence of the existence of brucellosis;
- (e) add such preservative to the sample as may be requested by the person in charge of the laboratory; and
- (f) 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.”

(4) In paragraph (2), after “(1)(d)” insert “or (1A)(e)”.

(5) In paragraph (3)(a), after “(1)” insert “or (1A)”.

(6) In paragraph (4), after “(1)” insert “or (1A)”.

(7) For paragraph (5) substitute—

“(5) In this article—

“approved laboratory” means a laboratory approved by the Scottish Ministers to carry out testing of milk for brucellosis; and

“processed milk” means milk that has been heated to more than 40°C or undergone any treatment that has an equivalent effect.”

(8) After paragraph (5) insert—

“(6) It is an offence for a person, without lawful authority or excuse, proof of which shall lie on that person, to fail to comply with paragraph (1), (1A), (2) or (3).

(7) Where—

- (a) an offence under paragraph (6) has been committed by a body corporate or a Scottish partnership or other unincorporated association; and
- (b) it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of—
 - (i) a relevant individual; or
 - (ii) an individual purporting to act in the capacity of a relevant individual, the individual as well as the body corporate, Scottish partnership or unincorporated association commits an offence and is liable to be proceeded against and punished accordingly.

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

- (a) in relation to a body corporate—
 - (i) a director, manager, secretary or other similar officer of the body;
 - (ii) where the affairs of the body are managed by its members, a member;

(b) in relation to a Scottish partnership, a partner;

(c) in relation to an unincorporated association other than a Scottish partnership, a person who is concerned in the management or control of the association.

(9) A person who commits an offence under paragraph (6) is liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale or both.”.

Revocation

3. The Diseases of Animals (Extension of Definitions) Order 1971^(a) is revoked.

RICHARD LOCHHEAD

A member of the Scottish Government

St Andrew's House,
Edinburgh
27th February 2014

^(a) S.I. 1971/531.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Brucellosis (Scotland) Order 2009 (“the 2009 Order”) which implements Council Directive 64/432/EEC on animal health problems affecting intra-community trade in bovine animals and swine (OJ 121, 29.7.1964, p.164) in so far as it relates to the operation of a monitoring and testing programme for brucellosis.

Article 2 of this Order amends article 7 of the 2009 Order. From 1st April 2014, it places a duty on owners or keepers of bovine animals who sell processed milk or milk products to take a quarterly sample of milk from all bovine animals whose milk is available for sale and submit these to an approved laboratory for testing for evidence of the existence of brucellosis. Failure to comply with the article is an offence.

The enforcement provisions set out at articles 24 and 25 of the 2009 Order apply to these provisions.

Article 3 of this Order revokes the Diseases of Animals (Extension of Definitions) Order 1971 (S.I. 1971/531) in so far as it applies to Scotland.

A Business Regulatory Impact Assessment has been prepared and placed in the Scottish Parliament Information Centre. Copies can be obtained from the Scottish Government Agriculture, Food and Rural Communities Directorate, Animal Health and Welfare Division, Saughton House, Broomhouse Drive, Edinburgh, EH11 3XD.

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