

SCOTTISH STATUTORY INSTRUMENTS

**2019 No. 310**

**The Bovine Viral Diarrhoea (Scotland) Order 2019**

**PART 1**

Preliminary

**Citation, commencement and extent**

1.—(1) This Order may be cited as the Bovine Viral Diarrhoea (Scotland) Order 2019 and comes into force on 1 December 2019.

(2) This Order extends to Scotland only.

**Commencement Information**

II [Art. 1](#) in force at 1.12.2019, see [art. 1\(1\)](#)

**Interpretation**

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

“2013 Order” means the Bovine Viral Diarrhoea (Scotland) Order 2013 <sup>M1</sup>,

“the Act” means the Animal Health Act 1981 <sup>M2</sup>,

“approved laboratory” means a laboratory approved by the Scottish Ministers in accordance with article 7,

“approved veterinary surgeon” means a veterinary surgeon approved by the Scottish Ministers in accordance with article 6,

“bovine animal” means a domestic animal of the genus *Bos* or the species *Bubalus bubalus* or *Bison 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 or 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 or no steps are taken to prevent or minimise the chances of such breeding,

“BVD” means bovine viral diarrhoea,

“BVDV” means BVD virus,

“calf” means a bovine animal aged 18 months or less,

“collective BVD status” means the BVD status of a breeding herd as determined in accordance with article 27,

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

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

“dairy breeding herd” means a breeding herd which is primarily maintained for the purpose of milk production and which is being managed according to a system which allows for the possibility of calving throughout the year,

“high risk animal” means a bovine animal which—

- (a) is a qualifying calf,
- (b) has been moved onto and kept on a holding for a period of more than 40 days and immediately prior to the movement was part of a breeding herd which had a collective BVD status of not negative, or
- (c) is an animal which has—
  - (i) spent any part of its life outside Scotland and been moved into Scotland, and
  - (ii) been kept in Scotland for a period of more than 40 days,

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

“individual BVD status” means the BVD status of an individual bovine animal as determined in accordance with article 26,

“inspector” has the same meaning as in section 89 of the Act,

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

“management tag” means an ear tag, other than an official ear tag, which is suitable to be applied to a bovine animal for the purpose of taking a sample of tissue,

“official ear tag” means an ear tag applied under the Cattle Identification (Scotland) Regulations 2007 <sup>M3</sup>,

“official ear tag number” means the number which is printed on an official ear tag,

“premises” means any land, building or vehicle, of any description,

“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 consecutive 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,

“Shetland Islands” means the local government area of the Shetland Islands which comprises the area of Shetland Islands Council as set out in section 1(2) and schedule 1 of the Local Government etc. (Scotland) Act 1994 <sup>M4</sup>,

“veterinary inspector” has the same meaning as in section 89 of the Act, and

“working day” means a day which is not a Saturday, Sunday or a day specified as a bank holiday in paragraph 2 of schedule 1 of the Banking and Financial Dealings Act 1971 <sup>M5</sup>.

(2) In this Order, any reference to a compliance deadline is a reference to a compliance deadline determined in accordance with article 11.

(3) In this Order, unless the context otherwise requires, any reference to an article or a schedule is a reference to an article in, or the schedule of, this Order.

#### Commencement Information

**I2** [Art. 2](#) in force at 1.12.2019, see [art. 1\(1\)](#)

#### Marginal Citations

- M1** [S.S.I. 2013/3](#). Amended by [S.S.I. 2013/21](#), [S.S.I. 2013/337](#), [S.S.I. 2013/363](#) and [S.S.I. 2015/186](#).  
**M2** [1981 c.22](#).  
**M3** [S.S.I. 2007/174](#). Amended by [S.S.I. 2007/312](#), [S.S.I. 2011/412](#), [S.S.I. 2017/133](#), [S.S.I. 2018/391](#) and [S.S.I. 2019/71](#).  
**M4** [1994 c.39](#).  
**M5** [1971 c.80](#). Amended by [St Andrew's Day Bank Holiday \(Scotland\) Act 2007 \(asp 2\)](#).

#### Notices and other instruments

**3.—(1)** Any notice, licence or approval given by the Scottish Ministers or an inspector under this Order—

- (a) may be subject to conditions, and
- (b) unless specified otherwise, may be amended, suspended or revoked by the same type of instrument at any time.

(2) Any licence or approval under this Order must be in writing.

(3) 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 <sup>M6</sup>, which has been recorded and is consequently capable of being reproduced.

(4) Any person moving a bovine animal under the authority of a licence granted under this Order must—

- (a) keep upon that person the licence or a copy of it at all times during such movement,
- (b) on demand by a veterinary inspector, an inspector or an officer of the Scottish Ministers, produce the licence or a copy of it and allow a copy or extract to be taken, and
- (c) keep the licence or a copy of it for the period of 6 months after the movement is completed.

#### Commencement Information

**I3** [Art. 3](#) in force at 1.12.2019, see [art. 1\(1\)](#)

#### Marginal Citations

**M6** [2000 c.7](#). Amended by the [Communications Act 2003 \(c.21\)](#).

#### Extension of the definition of “disease”

**4.** The definition of “disease” in section 88(1) of the Act continues to be extended to include BVD for all the purposes of the Act <sup>M7</sup>.

#### Commencement Information

**I4** [Art. 4](#) in force at 1.12.2019, see [art. 1\(1\)](#)

**Marginal Citations**

**M7** The definition was so extended by article 4 of the 2013 Order, which is revoked by article 44.

**Compliance with this Order**

**5.**—(1) Any sampling by a previous keeper for the purposes of compliance with the obligations of a keeper under this Order may, if the current keeper so elects, be relied upon by the current keeper for the purposes of determining compliance by the current keeper with the obligations in this Order.

(2) Any obligation under this Order on a keeper to take a sample may, if the keeper so elects, be fulfilled by the keeper arranging for another person to take the sample on the keeper's behalf.

(3) Any obligation under this Order on a keeper to submit a sample may, if the keeper so elects, be fulfilled by the keeper arranging for another person to submit the sample on the keeper's behalf.

**Commencement Information**

**I5** [Art. 5](#) in force at 1.12.2019, see [art. 1\(1\)](#)

## PART 2

### BVD Screening

**Approval of veterinary surgeons**

**6.**—(1) The Scottish Ministers may approve, subject to any conditions that the Scottish Ministers consider necessary, any veterinary surgeon whom they consider to be suitable for the purposes of carrying out the functions conferred on an approved veterinary surgeon by Parts 2 and 3 of this Order.

(2) 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.

(3) An approved veterinary surgeon must comply with any condition of the approval.

(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 steps are taken, as the Scottish Ministers specify in the notice.

(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 on the date on which the Scottish Ministers receive that notice.

**Commencement Information**

**I6** [Art. 6](#) in force at 1.12.2019, see [art. 1\(1\)](#)

**Approval of laboratories**

**7.**—(1) The Scottish Ministers may approve, subject to any conditions that the Scottish Ministers consider necessary, any laboratory that they consider to be suitable for the purpose of testing samples submitted under this Part.

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

(3) The operator of an approved laboratory must comply with any condition of the approval.

**Commencement Information**

**I7** Art. 7 in force at 1.12.2019, see **art. 1(1)**

**Suspension and revocation of approval of laboratories**

**8.—**(1) The Scottish Ministers may by notice given to the operator of an approved laboratory suspend or revoke an approval granted under article 7 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 this Part, or
- (b) they have reason to believe that any 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 operator of the laboratory to arrange or permit such inspections and quality assurance testing as the Scottish Ministers consider necessary.

(3) 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.

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

**Commencement Information**

**I8** Art. 8 in force at 1.12.2019, see **art. 1(1)**

**Sampling of breeding herds in accordance with compliance deadlines**

**9.—**(1) For the purposes of this article, a breeding herd does not include any bovine animal which has an individual BVD status of negative.

(2) The keeper of a breeding herd which is not kept in the Shetland Islands and is not a dairy breeding herd must, by each compliance deadline, take samples as described in any one of the sub-paragraphs of paragraph (3).

(3) The samples described in this paragraph are—

- (a) from each of the bovine animals in the herd either—
  - (i) an ear tag sample of tissue taken in accordance with article 14, or
  - (ii) a sample of blood,
- (b) a sample of blood from—
  - (i) each of 5 calves between the age of 9 and 18 months in the relevant group,
  - (ii) each of 10 calves between the age of 6 and 18 months in the relevant group, or

- (iii) where there are no calves between the ages of 6 and 18 months in the relevant group, each of 5 bovine animals in the relevant group which are over the age of 18 months and have not left the holding of their birth,
- (c) subject to paragraph (8), from each of the calves in the herd born in the immediately preceding 12 month period—
  - (i) an ear tag sample of tissue taken in accordance with article 14, or
  - (ii) a sample of blood.
- (4) The keeper of a breeding herd kept in any area within the Shetland Islands, must, by each compliance deadline, take a sample of blood from each of 5 calves between the age of 6 and 18 months in the relevant group.
- (5) The keeper of a dairy breeding herd, must, by each compliance deadline, take a sample of blood from each of 10 calves between the age of 9 and 18 months in the relevant group.
- (6) For the purposes of this article “relevant group” means—
  - (a) in the case of a breeding herd which does not contain any separately managed groups, the herd, and
  - (b) in the case of a breeding herd which contains two or more separately managed groups, each separately managed group.
- (7) Where—
  - (a) any sub-paragraph of paragraph (3) requires the keeper to take samples from a specified number of bovine animals of any description (“the described animals”), and
  - (b) the relevant group contains a number of described animals that is fewer than the specified number,
 the specified number in the relevant sub-paragraph is to be read as the total number of the described animals in the relevant group.
- (8) Paragraph (3)(c) applies only where no calves have been removed from the herd in the immediately preceding 12 month period.

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**Commencement Information**

**I9** [Art. 9](#) in force at 1.12.2019, see [art. 1\(1\)](#)

**Sampling of breeding bovine animals in accordance with compliance deadlines**

- 10.**—(1) The keeper of a breeding bovine animal must, by each compliance deadline, take from the animal—
- (a) an ear tag sample of tissue taken in accordance with article 14, or
  - (b) a sample of blood.
- (2) Paragraph (1) does not apply in the case of a breeding bovine animal which has an individual BVD status of negative.

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**Commencement Information**

**I10** [Art. 10](#) in force at 1.12.2019, see [art. 1\(1\)](#)

### Determining compliance deadlines

**11.**—(1) The first compliance deadline falls on the expiry of the period of 30 consecutive days that the herd or animal has been kept in Scotland as a breeding herd or as a breeding bovine animal.

(2) Subject to paragraph (3), each subsequent compliance deadline falls on the final day of the period—

- (a) of 7 months (in the case of a dairy breeding herd), or
- (b) of 13 months (in all other cases),

after the results of the tests of the samples taken under article 9 or 10 are notified to the Scottish Ministers under article 22.

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

- (a) a compliance deadline will not fall on the later of those compliance deadlines, and
- (b) the herd or animal will be treated as not having been kept in Scotland as a breeding herd or breeding bovine animal on that date.

#### Commencement Information

**I11** [Art. 11](#) in force at 1.12.2019, see [art. 1\(1\)](#)

### Additional sampling of not negative breeding herds

**12.**—(1) This article applies to a breeding herd where—

- (a) the collective BVD status of the breeding herd is not negative in accordance with article 27(2), and
- (b) there has been no change to the collective BVD status of the herd for a period of 15 consecutive months.

(2) This article ceases to apply on the earlier of—

- (a) the date that every animal in the herd has an individual BVD status of negative, or
- (b) the date that an approved veterinary surgeon has notified the Scottish Ministers of a change of the collective BVD status of the breeding herd from not negative to negative under article 30.

(3) Where this article applies, the keeper must, within the period of 13 months starting on the date on which this article first applies, take from each bovine animal in the herd which has no individual BVD status—

- (a) an ear tag sample of tissue taken in accordance with article 14, or
- (b) a sample of blood.

#### Commencement Information

**I12** [Art. 12](#) in force at 1.12.2019, see [art. 1\(1\)](#)

### Follow-on sampling of long term not negative herds

**13.**—(1) This article applies to a breeding herd on the date that article 12 ceases to apply to the herd in accordance with article 12(2)(a).

(2) This article ceases to apply on the date falling 12 months after this article first applies.

- (3) Where this article applies, the keeper must take—
- (a) an ear tag sample of tissue taken in accordance with article 14, or
  - (b) a sample of blood,
- from each calf born in the herd.

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**Commencement Information**

**I13** Art. 13 in force at 1.12.2019, see **art. 1(1)**

**Ear tag samples of tissue**

**14.**—(1) Subject to paragraphs (3) and (4), an ear tag sample of tissue is taken in accordance with this article if it is extracted from the animal from an official ear tag or a management tag and the vessel used to collect the sample complies with the conditions in paragraph (2).

- (2) The conditions in this paragraph are—
- (a) the vessel used to collect the sample must have a pre-printed identification number which is identical to the official ear tag number or the number on the management tag (as the case may be), and
  - (b) the identification number—
    - (i) is notified along with the animal's ear tag number when the sample is submitted, and
    - (ii) in the case of a sample taken from a bovine animal in a breeding herd, is used only once within the herd.

(3) The keeper must not take (or arrange to have taken) an ear tag sample of tissue from any bovine animal from which a sample has previously been collected from a management tag for the purpose of submitting for sampling under this Order.

(4) Where a sample of tissue is taken from a calf under 20 days of age, the sample must be taken from an official ear tag unless—

- (a) a sample of tissue has previously been taken from the calf from an official ear tag in which case the sample must be taken from a management tag, or
  - (b) the calf has died before the sample is taken in which case the sample may be taken from an official ear tag or a management tag.
- (5) For the purposes of this article, “collected” includes any attempt to collect a sample.

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**Commencement Information**

**I14** Art. 14 in force at 1.12.2019, see **art. 1(1)**

**Removal of management tags**

**15.**—(1) The keeper must remove a management tag which has been applied to a bovine animal where the information on the tag has become illegible.

- (2) The keeper must not remove a management tag for any other purpose except—
- (a) with the approval of the Scottish Ministers, or
  - (b) where the removal is necessary to safeguard the welfare of the animal.



**Commencement Information**

**I15** Art. 15 in force at 1.12.2019, see **art. 1(1)**

**Replacement of management tags**

**16.**—(1) This article applies where a management tag—

- (a) has been removed in accordance with article 15, or
- (b) has become otherwise detached from the animal.

(2) Where this article applies, the keeper must apply to the animal a tag that complies with the conditions provided in paragraph (3).

(3) The conditions of this paragraph are that the replacement tag—

- (a) must bear the same identification number as the management tag, and
- (b) must not be a management tag.

(4) The replacement of the tag under paragraph (2) must be within 28 days (or such longer period as the Scottish Ministers approve in the particular circumstances) of the keeper becoming aware—

- (a) that the tag is required to be removed under article 15(1) or (2)(b),
- (b) that the Scottish Ministers have approved the removal of the tag in accordance with article 15(2)(a), or
- (c) that the tag has been otherwise detached from the animal.

(5) This article applies in the same way to the removal and replacement of any replacement tag applied in accordance with this article.

**Commencement Information**

**I16** Art. 16 in force at 1.12.2019, see **art. 1(1)**

**Sampling restricted to veterinary surgeons**

**17.**—(1) A keeper may not take (or arrange to have taken) a sample referred to in paragraph (2) unless the sample is taken by, or under the supervision of, a veterinary surgeon.

(2) The samples referred to in this paragraph are—

- (a) a sample of blood from any bovine animal, or
- (b) any sample from a bovine animal which has an individual BVD status of positive.

**Commencement Information**

**I17** Art. 17 in force at 1.12.2019, see **art. 1(1)**

**Submission of samples for testing**

**18.**—(1) The keeper must, in accordance with paragraph (2), submit any sample taken under articles 9, 10, 12(3) or 13(3) to an approved laboratory with whose operator arrangements have been made for testing in relation to BVDV.

(2) A sample must be—

- (a) 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 equipment used to take the sample, and
- (b) accompanied by a notice containing the following information—
  - (i) the keeper's name and address,
  - (ii) by reference to the relevant provision of articles 9, 10, 12(3) or 13(3), a description of the sample,
  - (iii) the date the sample was taken,
  - (iv) the CPH number for the holding on which the herd or animal was kept at the time the sample was taken,
  - (v) where applied, the official ear tag number from the official ear tag,
  - (vi) any other information reasonably requested by the operator of the laboratory.

**Commencement Information**

**I18** Art. 18 in force at 1.12.2019, see **art. 1(1)**

**Sampling of qualifying calves**

- 19.**—(1) The keeper of a qualifying calf must—
- (a) before the calf is 40 days old take—
    - (i) an ear tag sample of tissue taken in accordance with article 14, or
    - (ii) a sample of blood, and
  - (b) in accordance with paragraph (2), submit the sample to an approved laboratory with whose operator arrangements have been made for testing in relation to BVDV.
- (2) 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 equipment 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 was kept at the time the sample was taken,
    - (iv) where applied, the official ear tag number from the official ear tag, and
    - (v) any other information reasonably requested by the operator of the laboratory.

**Commencement Information**

**I19** Art. 19 in force at 1.12.2019, see **art. 1(1)**

### Testing for exposure to BVDV

- 20.**—(1) This article applies where—
- (a) the keeper of a breeding herd has taken (or arranged to have taken) samples described in article 9(3)(b), (4) or (5),
  - (b) the keeper has arranged for the testing of the samples by an approved laboratory in accordance with article 18, and
  - (c) the samples have been submitted to an approved laboratory.
- (2) Where this article applies, the operator of the approved laboratory must—
- (a) test each of the samples for evidence of exposure to BVDV, and
  - (b) determine whether or not any of the samples show evidence of exposure to BVDV.

#### Commencement Information

**I20** Art. 20 in force at 1.12.2019, see [art. 1\(1\)](#)

### Testing for the presence of BVDV

- 21.**—(1) This article applies where—
- (a) a keeper of a breeding herd or breeding bovine animal has taken (or arranged to have taken) any sample for the purposes of this Order not described in the paragraphs referred to in article 20(1)(a),
  - (b) the keeper has arranged for the testing of a sample by an approved laboratory in accordance with article 18, and
  - (c) the sample has been submitted to the laboratory.
- (2) Where this article applies, the operator of the laboratory must—
- (a) test the sample for the presence of BVDV, and
  - (b) determine whether or not BVDV is present in the sample.

#### Commencement Information

**I21** Art. 21 in force at 1.12.2019, see [art. 1\(1\)](#)

### Notification of test result

- 22.**—(1) Following the completion of a test under article 20 the operator of an approved laboratory must by notice inform the keeper and the Scottish Ministers of each test result and—
- (a) where none of the samples show evidence of exposure to BVDV, that the herd has a collective BVD status of negative, or
  - (b) where any of the samples show evidence of exposure to BVDV, that the herd has a collective BVD status of not negative.
- (2) Following the completion of a test under article 21 the operator must by notice inform the keeper and the Scottish Ministers of the test result and—
- (a) where BVDV is not present in the sample, that the animal has an individual BVD status of negative, or
  - (b) where BVDV is present in the sample—

- (i) that the animal has an individual BVD status of positive, and
  - (ii) that the breeding herd, where relevant, has a collective BVD status of not negative.
- (3) Notification to the keeper and the Scottish Ministers in accordance with paragraphs (1) or (2) must be within 5 working days of the date of the test and include details of—
- (a) the keeper's name and address,
  - (b) by reference to the relevant provision of articles 9, 10, 12 or 13 the description of the sample,
  - (c) the date the sample was taken,
  - (d) the date the sample was tested,
  - (e) the CPH number for the holding on which the herd or animal was kept at the time the sample was or the samples were taken,
  - (f) where applied, the official ear tag number from the official ear tag.

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**Commencement Information**

**I22** [Art. 22](#) in force at 1.12.2019, see [art. 1\(1\)](#)

**Testing of qualifying calves**

- 23.**—(1) This article applies where—
- (a) the keeper of a qualifying calf has in accordance with article 19 arranged for the testing of a sample by an approved laboratory, and
  - (b) the sample has been submitted to the laboratory.
- (2) The operator of the laboratory must—
- (a) test the sample for the presence of BVDV,
  - (b) determine whether or not BVDV is present in the sample.
- (3) Following the completion of a test under sub-paragraph (2)(a), the operator must by notice inform the keeper and the Scottish Ministers of the result of the test and—
- (a) where BVDV is present in the sample, that the qualifying calf has an individual BVD status of positive, or
  - (b) where BVDV is not present in the sample, that the qualifying calf has an individual BVD status of negative.
- (4) A notice to the Scottish Ministers in accordance with paragraph (3) must be within 5 working days of testing the sample under paragraph (2)(a), and include details of—
- (a) the keeper's name and address,
  - (b) the date the sample was taken,
  - (c) the date the sample was tested, and
  - (d) the CPH number for the holding on which the calf was kept at the time the sample was taken, and
  - (e) where applied, the official ear tag number from the official ear tag.

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**Commencement Information**

**I23** [Art. 23](#) in force at 1.12.2019, see [art. 1\(1\)](#)

### Record keeping and disclosure

**24.**—(1) The operator of an approved laboratory must maintain a record of any test carried out under this Part for 3 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 the Scottish Ministers with a copy of such records.

#### Commencement Information

**I24** Art. 24 in force at 1.12.2019, see [art. 1\(1\)](#)

### Reporting of tests for presence of BVDV other than under this Order

**25.**—(1) This article applies where, other than for the purposes of this Order, a laboratory (including an approved laboratory) tests for evidence of exposure to BVDV or for the presence of BVDV in a sample (of any description) taken from a bovine animal.

(2) The operator of the laboratory must by notice inform the Scottish Ministers and the keeper, within 5 working days of testing the sample, of—

- (a) a description of the sample,
- (b) the date the sample was tested,
- (c) the result of the test, clearly indicating—
  - (i) whether or not the sample shows evidence of exposure to BVDV, or,
  - (ii) whether or not BVDV is present in the sample, and
- (d) in so far as known by the operator—
  - (i) the official ear tag number,
  - (ii) the keeper's name and address,
  - (iii) the CPH number for the holding on which the animal was kept at the time the sample was taken, and
  - (iv) the date the sample was taken.

#### Commencement Information

**I25** Art. 25 in force at 1.12.2019, see [art. 1\(1\)](#)

## PART 3

### BVD Control

#### Individual BVD status

**26.**—(1) For the purposes of this Order, a bovine animal referred to in paragraph (2), either—

- (a) has an individual BVD status of positive,
- (b) has an individual BVD status of negative, or
- (c) has no individual BVD status.

(2) The bovine animals referred to in this paragraph are—

- (a) each breeding bovine animal,
  - (b) each bovine animal in a breeding herd, and
  - (c) each qualifying calf.
- (3) Subject to article 28, a bovine animal has an individual BVD status of positive if—
- (a) the operator of an approved laboratory has by notice informed the Scottish Ministers that the animal has an individual BVD status of positive in accordance with article 22(2)(b)(i) or, in the case of a qualifying calf, article 23(3)(a), or
  - (b) except in a case where paragraph (4)(a) applies, it is the calf of a female animal which has an individual BVD status of positive.
- (4) A bovine animal has an individual BVD status of negative if—
- (a) the operator of an approved laboratory has by notice informed the Scottish Ministers that the animal has an individual BVD status of negative in accordance with article 22(2)(a) or, in the case of a qualifying calf, article 23(3)(b), or
  - (b) the animal is the dam of a calf which has an individual BVD status of negative.
- (5) The bovine animal has no individual BVD status in all other cases.

**Commencement Information**

**I26** Art. 26 in force at 1.12.2019, see art. 1(1)

**Collective BVD status of breeding herds**

- 27.**—(1) For the purposes of this Order, a breeding herd either—
- (a) has a collective BVD status of not negative, or
  - (b) has a collective BVD status of negative.
- (2) Subject to article 29, a breeding herd has collective BVD status of not negative—
- (a) at any time that paragraph (4) applies to the herd, or
  - (b) where the operator of an approved laboratory has by notice under article 22(1)(b) or 22(2)(b)(ii) informed the Scottish Ministers that the herd has a collective BVD status of not negative.
- (3) A breeding herd has a collective BVD status of negative—
- (a) at any time paragraph (4) does not apply to the herd, and
  - (b) where the operator of an approved laboratory has by notice informed the Scottish Ministers that the herd has a collective BVD status of negative under article 22(1)(a).
- (4) This article applies where—
- (a) the herd contains a bovine animal which has an individual BVD status of positive,
  - (b) the herd is kept on the same holding as any bovine animal which is a high risk animal and has no individual BVD status, or
  - (c) the keeper of the herd has not complied with any obligations applicable to the herd in article 9.
- (5) In this article, any reference to a “notice” means the most recent notice submitted by the operator of an approved laboratory to the Scottish Ministers under article 22 and supersedes any previous notice.

**Commencement Information**

**I27** Art. 27 in force at 1.12.2019, see art. 1(1)

**Change of individual BVD status by an approved veterinary surgeon**

**28.** An approved veterinary surgeon may change the individual BVD status of a bovine animal from positive to negative where that surgeon reasonably considers that further action or investigation has been carried out which confirms that BVDV is not or is no longer present in that animal.

**Commencement Information**

**I28** Art. 28 in force at 1.12.2019, see art. 1(1)

**Change of collective BVD status by an approved veterinary surgeon**

**29.** An approved veterinary surgeon may change the collective BVD status of a breeding herd from not negative to negative where that surgeon reasonably considers that—

- (a) further action or investigation has been carried out to confirm the presence of BVDV in any animal forming part of the herd, and
- (b) as a result of such action or investigation, either the presence of BVDV has not been confirmed in any such animal or, in the case where the presence of BVDV has been confirmed in any such animal, that animal has been removed from the herd and, prior to its removal, the animal was isolated or other appropriate steps were taken so as to minimise the risk of spread of BVDV to any other animal in the herd.

**Commencement Information**

**I29** Art. 29 in force at 1.12.2019, see art. 1(1)

**Notification of a change of status by an approved veterinary surgeon**

**30.—(1)** The approved veterinary surgeon must by notice inform the keeper and the Scottish Ministers of any change of BVD status under articles 28 or 29.

(2) A notice under paragraph (1) must be given within 5 days of the approved veterinary surgeon's determination of the change of BVD status and must include the official ear tag number of the animal or animals in respect of which the further action or investigation or, as the case may be, further testing, has been carried out.

**Commencement Information**

**I30** Art. 30 in force at 1.12.2019, see art. 1(1)

**Restrictions on the movement of animals where sampling obligations are missed**

**31.—(1)** This article applies to the keeper of a breeding herd or breeding bovine animal if, by the date of the most recent compliance deadline (set in accordance with article 11), the keeper has failed to comply with any obligations, so far as applicable to that keeper, in article 9, 10, 12 or 13 (in this article “the applicable obligations”).

(2) The keeper must not, during the relevant period, move (or arrange to move) any animal forming part of the breeding herd or the breeding bovine animal from the holding on which it is kept unless—

- (a) the animal is being moved to slaughter,
- (b) the movement is under a licence granted by a veterinary inspector or the Scottish Ministers, or
- (c) an approved veterinary surgeon reasonably considers that further action or investigation has been carried out which confirms that BVDV is not or is no longer present in the animal and has by notice under article 30 informed the keeper and the Scottish Ministers of that fact.

(3) In paragraph (2), “the relevant period” is the period—

- (a) beginning with the later of—
  - (i) the coming into force day, or
  - (ii) the date of the most recent compliance deadline, and
- (b) ending on the date on which—
  - (i) the keeper has complied with all of the applicable obligations, and
  - (ii) has received a notification under article 22 in respect of the samples tested in accordance with those obligations.

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**Commencement Information**

**I31** Art. 31 in force at 1.12.2019, see art. 1(1)

**Restrictions on the movement of bovine animals with an individual BVD status of positive**

**32.**—(1) Subject to paragraph (2), a keeper must not move a bovine animal off of a holding if the animal has an individual BVD status of positive.

(2) Paragraph (1) does not apply if—

- (a) the animal is being moved to slaughter, or
- (b) the movement is under a licence granted by a veterinary inspector or the Scottish Ministers.

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**Commencement Information**

**I32** Art. 32 in force at 1.12.2019, see art. 1(1)

**Restrictions on the movement of animals off a holding with a not negative herd or a BVD positive animal**

**33.**—(1) Subject to paragraph (2), the keeper must not move a bovine animal off of a holding if—

- (a) the animal is part of a herd which has a collective BVD status of not negative, or
- (b) there is an animal with an individual BVD status of positive present on the holding.

(2) Paragraph (1) does not apply if—

- (a) the animal has an individual BVD status of negative,
- (b) the animal is being moved to slaughter, or
- (c) the movement is under a licence granted by a veterinary inspector or the Scottish Ministers.



**Commencement Information**

**I33** Art. 33 in force at 1.12.2019, see art. 1(1)

**Restrictions on the movement of bovine animals onto a holding with a not negative herd**

**34.**—(1) Subject to paragraph (2), the keeper must not move (or arrange to move) any bovine animal onto a holding when there is a bovine animal with an individual BVD status of positive present on that holding.

(2) Paragraph (1) shall not apply where—

- (a) the keeper does not know (and could not reasonably be expected to know) that there is bovine animal with an individual BVD status of positive on the holding, or
- (b) the movement is under a licence granted by a veterinary inspector or the Scottish Ministers.

**Commencement Information**

**I34** Art. 34 in force at 1.12.2019, see art. 1(1)

**Restriction on the movement of high risk animals**

**35.**—(1) This article applies to the keeper of a breeding herd which contains any bovine animal which—

- (a) is a high risk animal, and
- (b) has an individual BVD status of positive or no individual BVD status.

(2) The keeper must not move (or arrange to move) the animal off the holding unless—

- (a) the animal is being moved to slaughter,
- (b) the movement is under a licence granted by a veterinary inspector or the Scottish Ministers, or
- (c) an approved veterinary surgeon reasonably considers that further action or investigation has been carried out which confirms that BVDV is not present in the animal and has by notice informed the keeper and the Scottish Ministers of that fact.

**Commencement Information**

**I35** Art. 35 in force at 1.12.2019, see art. 1(1)

**[<sup>F1</sup>Separation of bovine animals with an individual BVD status of positive**

**35A.**—(1) This article applies to a breeding herd which contains one or more bovine animals with an individual BVD status of positive.

(2) Subject to paragraphs (4) and (5), where this article applies the keeper must separate all the bovine animals with an individual BVD status of positive from the rest of the herd and house them in one or more groups (each a “BVD positive group”) in accordance with the conditions in paragraph (3).

(3) The conditions of this paragraph are that the animals are housed indoors and in a manner consistent with good practice which—

- (a) prevents physical contact with, and
  - (b) does not give rise to any appreciable risk of transferring BVDV to,
- any bovine animal that is not part of a BVD positive group.

(4) Where a BVD positive group would contain no more than one animal with an individual BVD status of positive, the keeper must ensure that the group contains the minimum number of other bovine animals (regardless of individual BVD status) necessary in order to protect the welfare of each animal.

(5) Paragraph 2 does not apply where the animal is being—

- (a) moved to slaughter, or
- (b) moved under a licence granted by a veterinary inspector or the Scottish Ministers.

(6) A bovine animal does not cease to be part of a breeding herd by virtue of its separation under this article.]

#### Textual Amendments

**F1** [Art. 35A](#) inserted (18.5.2020) by [The Bovine Viral Diarrhoea \(Scotland\) Amendment Order 2020](#) (S.S.I. 2020/86), arts. 1, **2(2)**

#### Notification of BVD on a holding

**36.**—(1) This article applies where—

- (a) there is a bovine animal with an individual BVD status of positive present on a holding, and
- (b) there is a bovine animal belonging to another keeper (in this article “the other keeper”) kept on the holding.

(2) The keeper must give notice to the other keeper that there is a bovine animal with an individual BVD status of positive on the holding.

(3) A notice under paragraph (2) must be given within 7 days of the later of—

- (a) the date that the keeper knows (or ought reasonably to know) that the animal has an individual BVD status of positive, or
- (b) the other keeper moving a bovine animal onto the holding.

(4) Where the individual BVD status of the bovine animal is changed, the keeper must, within 7 days of receiving notice from an approved laboratory of the change of individual BVD status (or otherwise becoming aware of the change), give the other keeper notice of the change.

#### Commencement Information

**I36** [Art. 36](#) in force at 1.12.2019, see art. 1(1)

#### Notification of BVD status prior to movement

**37.**—(1) This article applies where a keeper intends to move a bovine animal in a breeding herd or a breeding bovine animal off the holding on which it is kept (except where the animal is being moved to slaughter).

(2) The keeper must, before moving the animal off of the holding, give notice to the persons mentioned in paragraph (3) of—

- (a) the individual BVD status of each bovine animal, and

- (b) in the case of a breeding herd, the collective BVD status of the herd.
- (3) The persons mentioned in this paragraph are—
  - (a) the operator of a market to which the animal is to be moved,
  - (b) the prospective keeper of the animal,
  - (c) any person with whom the animal is to be temporarily placed.
- (4) This article does not apply if the relevant person mentioned in paragraph (3) is aware of the individual BVD status of—
  - (a) the animal being moved, and
  - (b) every other bovine animal that is being moved with the animal.

**Commencement Information**

**I37** Art. 37 in force at 1.12.2019, see art. 1(1)

**Meaning of “moved to slaughter”**

**38.**—(1) In this Part, where any bovine animal is “moved to slaughter” this means that the animal is being moved under the conditions specified in paragraph (2).

- (2) The conditions specified in this paragraph are that the animal is being moved—
  - (a) directly to slaughter, and
  - (b) under arrangements which do not give rise to any appreciable risk of infection with BVDV to any other bovine animal (except a bovine animal which is also being moved to slaughter).

**Commencement Information**

**I38** Art. 38 in force at 1.12.2019, see art. 1(1)

## **PART 4**

### **Final provisions**

**Maintenance, publication and provision of information**

**39.**—(1) The Scottish Ministers must maintain a record of information notified or provided in accordance with articles 3(4)(b), 6(6), 7(2), 8(2), 22(1), 22(2), 23(3), 25(2), and 30.

(2) The Scottish Ministers must provide information so far as held by them to a relevant person about—

- (a) the collective BVD status of a breeding herd or the individual BVD status of a bovine animal, and
- (b) the result of a laboratory test for the presence of, or exposure to, BVDV in relation to a sample taken from a bovine animal.

(3) In paragraph (2), “a relevant person” means—

- (a) the keeper of the herd or bovine animal, or
- (b) the operator of a market to which the herd or animal is moved or is to be moved.

- (4) Where they consider it appropriate to do so, the Scottish Ministers may—
- (a) provide information held by them, as described in paragraph (2), to any other person who requests that information,
  - (b) publish such information (or any part of such information) as they deem appropriate.

**Commencement Information**

**I39** [Art. 39](#) in force at 1.12.2019, see [art. 1\(1\)](#)

**Enforcement**

- 40.**—(1) Subject to paragraph (2), this Order is enforced by the local authority.
- (2) The Scottish Ministers may, in relation to such particular cases or such cases of a particular description, as they may specify, enforce this Order in place of the local authority.

**Commencement Information**

**I40** [Art. 40](#) in force at 1.12.2019, see [art. 1\(1\)](#)

**Powers of entry**

- 41.**—(1) An inspector may, on producing a duly authenticated authorisation if requested, enter any premises (except premises used wholly as a private dwelling house) at any reasonable hour for the purpose of enforcing this Order.
- (2) A justice of the peace, summary sheriff or sheriff may, by signed warrant, permit an inspector to enter any premises as mentioned in paragraph (1), 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.

**Commencement Information**

**I41** [Art. 41](#) in force at 1.12.2019, see [art. 1\(1\)](#)

**Powers of inspectors**

- 42.**—(1) An inspector entering any premises may for the purpose of enforcing this Order—

- (a) inspect any animal or article there,
  - (b) take samples,
  - (c) carry out any inquiries, examinations or tests,
  - (d) have access to, inspect and copy any relevant documents or records (in whatever form they are held), 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 premises and it is not reasonably practicable to determine whether documents or records on those premises are relevant, 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,
  - (b) be accompanied by such other persons as the inspector considers necessary.

**Commencement Information**

**I42** [Art. 42](#) in force at 1.12.2019, see [art. 1\(1\)](#)

**Offences by bodies corporate**

**43.**—(1) Where—

- (a) an offence against the Act in relation to this Order is committed 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 body corporate, Scottish partnership or unincorporated association commits an 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, 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.

**Commencement Information**

**I43** [Art. 43](#) in force at 1.12.2019, see [art. 1\(1\)](#)

**Revocation and transitional provisions**

- 44.**—(1) The 2013 Order is revoked.
- (2) The schedule contains transitional provisions.

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**Changes to legislation:** There are currently no known outstanding effects for the The  
Bovine Viral Diarrhoea (Scotland) Order 2019. (See end of Document for details)

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**Commencement Information**

**I44** [Art. 44](#) in force at 1.12.2019, see [art. 1\(1\)](#)

St Andrew's House,  
Edinburgh

*MAIRI GOUGEON*  
Authorised to sign by the Scottish Ministers

**Changes to legislation:**

There are currently no known outstanding effects for the The Bovine Viral Diarrhoea (Scotland) Order 2019.