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SCOTTISH STATUTORY INSTRUMENTS

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**2023 No. 93**

**The Tuberculosis (Scotland) Order 2023**

**PART 5**

**Slaughter and compensation**

**Notification of intended slaughter of bovine animals**

**20.**—(1) Where the Scottish Ministers intend to cause a bovine animal to be slaughtered under section 32 of the Act in its application to tuberculosis, a veterinary inspector must serve a notice on the keeper of the animal informing that person of the intended slaughter and requiring that person to detain the animal pending such slaughter (or pending its surrender and removal for such slaughter) on such part of the premises as is specified in the notice and to keep it in isolation as far as reasonably practicable.

(2) The person on whom such a notice has been served—

- (a) must comply with the notice, and
- (b) must not move the animal, or cause or permit it to be moved, off that part of the premises on which it is required to be detained, except under the authority of a licence issued by a veterinary inspector.

**Compensation – general provision**

**21.**—(1) Where the Scottish Ministers cause a bovine animal to be slaughtered under section 32 of the Act in its application to tuberculosis, they must pay compensation in accordance with this article and articles 22 to 27.

(2) Subject to articles 23 to 27, where the animal is identified by means of ear tags and a cattle passport in accordance with the requirements of the Cattle Identification (Scotland) Regulations 2007<sup>(1)</sup>, the compensation payable is the market value of the animal ascertained in accordance with article 22.

(3) Where the animal is not identified by means of ear tags and a cattle passport in accordance with the requirements of the Cattle Identification (Scotland) Regulations 2007, the amount of compensation payable is £1.

(4) Where paragraph (3) applies, the Scottish Ministers must notify the keeper of the decision to pay compensation of £1—

- (a) giving the reasons for the decision, and
- (b) explaining that the keeper has the right to make written representations to a person appointed by the Scottish Ministers in accordance with article 28.

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<sup>(1)</sup> S.S.I. 2007/174, amended by S.S.I. 2007/312, S.S.I. 2011/412 and S.S.I. 2017/133.

### Ascertainment of market value

**22.**—(1) Subject to articles 23 to 27, the market value of a bovine animal is, for the purposes of payment of compensation under article 21, 23, 26 or 27, to be determined—

- (a) by agreement between the Scottish Ministers and the owner of the animal,
- (b) by agreement between two valuers, one appointed by the Scottish Ministers and the other by the owner,
- (c) by one valuer, appointed jointly by the Scottish Ministers and the owner, or
- (d) failing agreement or appointment, by a valuer nominated by the President of the Institute of Auctioneers and Appraisers in Scotland.

(2) The valuer or valuers must give to the Scottish Ministers and the owner of the animal a certificate in writing of the value of the animal.

(3) Any valuer appointed or nominated under paragraph (1) is to be paid by the Scottish Ministers.

(4) Only individuals acting alone may be appointed or nominated for the purposes of this article.

(5) The provisions of article 4 (ascertainment of value for compensation in Scotland) of the Diseases of Animals (Ascertainment of Compensation) Order 1959<sup>(2)</sup> do not apply where the Scottish Ministers cause a bovine animal to be slaughtered under section 32 of the Act in its application to tuberculosis.

### Compensation for bovine animals slaughtered for tuberculosis

**23.**—(1) Subject to articles 24 to 27, this article applies where a bovine animal is caused to be slaughtered under section 32 of the Act and the market value of that bovine animal ascertained in accordance with article 22 exceeds—

- (a) £5,000 in the case of a bovine animal other than a pedigree bovine animal, or
- (b) £7,500 in the case of a pedigree bovine animal.

(2) Where this article applies, the compensation payable is the sum mentioned in paragraph (1) (a) or (b), whichever is applicable.

(3) For the purposes of this article—

“2016 Regulation” means Regulation (EU) 2016/1012 of the European Parliament and of the Council on zootechnical and genealogical conditions for the breeding, trade in and entry into the Union of purebred breeding animals, hybrid breeding pigs and the germinal products thereof and amending Regulation (EU) No 652/2014, Council Directives 89/608/EEC and 90/425/EEC and repealing certain acts in the area of animal breeding<sup>(3)</sup>,

“breeding book” has the same meaning as Article 2(12)(a) of the 2016 Regulation and “main section of a breeding book” is to be construed in accordance with Article 2(13) of that Regulation,

“breed society” has the same meaning as Article 2(5) of the 2016 Regulation,

“zootechnical certificate” has the same meaning as Article 2(20) of the 2016 Regulation,

“pedigree bovine animal” means a bovine animal—

- (a) which, before the relevant date is entered into the main section of a breeding book by a breed society, and
- (b) for which a zootechnical certificate is—
  - (i) issued by that breed society before the relevant date, and

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(2) S.I. 1959/1335.

(3) EUR 2016/1012, amended by S.I. 2019/117.

- (ii) presented to the Scottish Ministers, or to a valuer appointed or nominated, for the purposes of article 22,

“relevant date” means the date notice was served on the keeper of the animal under article 20 of the intended slaughter of the animal.

### **Compensation for animals subject to movement restrictions**

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

- (a) a bovine animal is moved onto, or off, premises or part of premises, in breach of a relevant movement restriction or prohibition,
- (b) a diagnostic test for tuberculosis is applied to the animal and the test results reveal that the animal is a reactor,
- (c) the keeper is informed of the test results by a person who has received consent to test under article 35(a), and
- (d) the Scottish Ministers cause the animal to be slaughtered under section 32 of the Act.

(2) Where this article applies, the amount of compensation payable for a slaughtered animal is £1.

(3) Where this article applies, the Scottish Ministers must notify the keeper of the decision to pay compensation of £1—

- (a) giving the reasons for the decision, and
- (b) explaining that the keeper has the right to make written representations to a person appointed by the Scottish Ministers in accordance with article 28.

(4) In paragraph (1)(a), “a relevant movement restriction” means a movement restriction or prohibition applicable in respect of premises by virtue of—

- (a) article 5(1)(b)(i),
- (b) article 7(2)(a) and (c),
- (c) article 14(2)(a),
- (d) article 20(2)(b),
- (e) article 31(1)(b),
- (f) article 33.

### **Compensation for animals subject to isolation requirements**

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

- (a) an affected animal or suspected animal is not kept in isolation, in breach of a relevant isolation requirement, and
- (b) the Scottish Ministers cause the animal to be slaughtered under section 32 of the Act.

(2) Where this article applies, the amount of compensation payable for a slaughtered animal is 5% of the amount which would otherwise be payable in accordance with article 22.

(3) Where this article applies, the Scottish Ministers must notify the keeper of the decision to reduce compensation—

- (a) giving the reasons for the decision, and
- (b) explaining that the keeper has the right to make written representations to a person appointed by the Scottish Ministers in accordance with article 28.

(4) In paragraph 1(a), “a relevant isolation requirement” means an isolation requirement applicable in respect of premises by virtue of—

- (a) article 5(1)(b)(ii),
- (b) article 7(2)(a),
- (c) article 14(2)(b),
- (d) article 17(1)(b),
- (e) article 18(2),
- (f) article 20(1).

### **Reduced compensation for testing delays**

26.—(1) This article applies where—

- (a) the keeper of the animal is served with a test notice under article 30(1),
- (b) the keeper fails to carry out a diagnostic test for tuberculosis by the latest date specified in the notice (“the specified date”),
- (c) a diagnostic test for tuberculosis is applied to the animal after the specified date and the test results reveal that the animal is a reactor,
- (d) the keeper is informed of the test results by a person who has received consent to test under article 35(a),
- (e) the Scottish Ministers cause the animal to be slaughtered under section 32 of the Act, and
- (f) the market value of the animal is ascertained in accordance with article 22.

(2) Where this article applies, the compensation payable for a slaughtered animal is—

- (a) where the interval between the specified date and the date of the test is more than 60 days but not more than 90 days, 50% of the market value of the animal as ascertained in accordance with article 22, or
- (b) where the interval between the specified date and the date of the test is more than 90 days, 5% of the market value of the animal as ascertained in accordance with article 22.

(3) Where this article applies, the Scottish Ministers must notify the keeper of the decision to reduce compensation—

- (a) giving the reasons for the decision, and
- (b) explaining that the keeper has the right to make written representations to a person appointed by the Scottish Ministers in accordance with article 28.

### **Reduced compensation for presentation of unclean animal for slaughter**

27.—(1) This article applies where—

- (a) the Scottish Ministers cause a bovine animal to be slaughtered under section 32 of the Act,
- (b) the keeper presents the animal, or arranges for the animal to be presented, for slaughter at a slaughterhouse, and
- (c) the official veterinarian at the slaughterhouse is of the opinion that the animal is not in a clean condition in accordance with the requirement in point 4 of chapter 4 of Section 1 of Annex 3 to Regulation (EC) No 853/2004 of the European Parliament and of the Council laying down specific hygiene rules for food of animal origin<sup>(4)</sup>.

(2) Where this article applies, the amount of compensation payable for a slaughtered animal is 50% of the amount which would otherwise be payable in accordance with article 22.

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(4) EUR 2004/853.

(3) Where this article applies, the Scottish Ministers must notify the keeper of the decision to reduce compensation—

- (a) giving the reasons for the decision, and
- (b) explaining that the keeper has the right to make written representations to a person appointed by the Scottish Ministers in accordance with article 28.

**Review of decision to pay reduced compensation etc.**

**28.**—(1) Within a period of 21 days beginning with the date of receipt of a notification under article 21(4), 24(3), 25(3), 26(3) or 27(3), the keeper may make written representations to a person appointed by the Scottish Ministers for the purpose of having the decision to reduce the compensation payable to the keeper reviewed by that person (“the appointed person”).

(2) The appointed person must consider those representations together with any written representations made by the Scottish Ministers.

(3) Having considered representations in accordance with paragraph (2), the appointed person must then report in writing to the Scottish Ministers who must then make their final determination in relation to the amount of compensation payable in respect of the animal caused to be slaughtered under section 32 of the Act.