

Status: Point in time view as at 14/01/2003.

Changes to legislation: There are currently no known outstanding effects for the Animal Health Act 2002. (See end of Document for details)

SCHEDULE

Section 6

SCRAPIE

In the Animal Health Act 1981 (c. 22) the following Part is inserted after Part 2—

“PART 2A

SCRAPIE

Sheep genotypes

Power of Secretary of State to specify sheep genotypes

36A The Secretary of State may by order specify sheep genotypes which, in his opinion, are more susceptible than other sheep genotypes—

- (a) to infection by transmissible spongiform encephalopathies generally, or by a particular form of transmissible spongiform encephalopathy, or
- (b) to becoming carriers.

Genetically susceptible sheep

Identification of genetically susceptible sheep

36B (1) The Secretary of State may by regulations make provision requiring the keeper of any sheep—

- (a) to allow an inspector to take a sample from it, for the purpose of establishing its genotype;
- (b) to allow an inspector to administer or otherwise attach to it an electronic identification device;
- (c) where the genotype of the sheep has been established (whether or not as a result of the exercise of powers conferred by this Part) to keep a record of its genotype.

(2) The regulations may, in particular—

- (a) provide that only electronic identification devices of a prescribed kind may be administered or attached;
- (b) make provision as to the assistance which an inspector may require the keeper to give to him;
- (c) make provision with respect to the testing of samples;
- (d) require the issuing and keeping of certificates recording the genotypes of sheep.

Restrictions on breeding from genetically susceptible sheep

36C (1) This section applies where it appears to the Secretary of State that a sheep is of a genotype specified in an order under section 36A.

(2) The Secretary of State must consider whether there are exceptional circumstances that justify allowing the sheep to be used for breeding.

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- (3) If it appears to the Secretary of State that allowing the sheep to be used for breeding would not be justified, he must give notice to its keeper (“a restriction notice”) that the restrictions and requirements imposed by subsections (7) to (9) apply in relation to the sheep.
- (4) A restriction notice—
 - (a) may be made so as to apply to more than one sheep, and
 - (b) may describe the sheep to which it applies in such a way as the Secretary of State considers appropriate.
- (5) If the keeper of a sheep is not the same person as its owner, the Secretary of State may give a separate restriction notice to the owner.
- (6) Subsections (7) to (9) apply to a person to whom a restriction notice is given.
- (7) He must not—
 - (a) use a sheep to which the notice applies, or its semen, eggs or embryos, for purposes of or connected with breeding, or
 - (b) cause or permit such a sheep or such semen, eggs or embryos to be used by another person for those purposes.
- (8) He must arrange for any semen, egg or embryo which has at any time been taken from a sheep to which the notice applies, and which is in his possession or under his control, to be destroyed.
- (9) He must arrange for each sheep to which the notice applies—
 - (a) to be castrated or (as appropriate) sterilised before the end of the period of one month beginning with the date on which the notice was given, or
 - (b) to be slaughtered before the end of the period of seven months beginning with that date.
- (10) For the purposes of subsection (2) exceptional circumstances include circumstances in which the imposition in relation to the sheep of the restrictions and requirements of subsections (7) to (9) is likely to cause the extinction of the breed of which the sheep is a member.

Appeals

- 36D(1) A person to whom a restriction notice has been given may appeal against the notice to a person appointed by the Secretary of State for the purpose of dealing with appeals under this Part (“an assessor”).
- (2) An appeal may not be brought after the end of the period of 21 days beginning with the date on which the notice concerned was given to the appellant.
 - (3) But the Secretary of State may, in a particular case, extend the period of 21 days if he considers that there are exceptional circumstances justifying the extension.
 - (4) If the restriction notice applies to more than one sheep, the appeal may be limited to the sheep specified by the appellant.
 - (5) If the assessor allows the appeal, in whole or in part, he may—
 - (a) revoke the notice,
 - (b) revoke the notice so far as it applies to one or more sheep specified by him, or

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- (c) direct that a further test is carried out in relation to sheep specified by him.
- (6) A direction under subsection (5)(c) may require—
 - (a) a further sample to be taken,
 - (b) the further test to be carried out by a different testing laboratory.
- (7) The Secretary of State may make regulations supplementing the provisions of this section.
- (8) The regulations may, in particular, make provision—
 - (a) as to the procedure to be followed on an appeal,
 - (b) extending the period mentioned in section 36C(9)(a) where an appeal is brought against a restriction notice,
 - (c) requiring the appellant to meet the reasonable costs of, and in connection with, the taking of a further sample or the carrying out of a further test as a result of a direction under subsection (5)(c), and
 - (d) as to the recovery of any such costs.
- (9) The revocation of a restriction notice (in whole or in part) by an assessor does not prevent the issue of another restriction notice, following the testing of a further sample.

Enforcement

Secretary of State's powers of enforcement

- 36E (1) This section applies if the Secretary of State is satisfied that a person to whom a restriction notice has been given has failed to comply with one or more of the restrictions or requirements imposed on him by section 36C.
- (2) But it does not apply in relation to any sheep—
 - (a) which is the subject of an appeal under section 36D which has not been disposed of, or
 - (b) which, as the result of a successful appeal, is no longer subject to the restriction notice.
 - (3) The Secretary of State may take such reasonable steps as he considers appropriate to secure that the failure is remedied.
 - (4) In particular, the Secretary of State may cause to be castrated (or as appropriate sterilised) or slaughtered any sheep—
 - (a) which is the subject of the notice, but
 - (b) which has neither been castrated (or as appropriate sterilised) nor slaughtered within the period mentioned in section 36C(9)(b).
 - (5) The Secretary of State may make regulations supplementing the provisions of this section.

Offences

- 36F (1) A person to whom a restriction notice is given commits an offence (whether or not the notice is the subject of an appeal) if—

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- (a) he sells (or otherwise transfers to another person) a sheep to which the notice applies, or any of its semen, eggs or embryos;
 - (b) he fails, without reasonable excuse (proof of which lies on him) to comply with any of the restrictions or requirements imposed by subsections (7) to (9) of section 36C.
- (2) Any other person commits an offence if he uses any semen, egg or embryo which he knows, or has reasonable cause to believe, has been taken from a sheep which is the subject of a restriction notice.
- (3) A person commits an offence if, without reasonable excuse (proof of which lies on him), he fails to comply with any provision of regulations made under section 36B.
- (4) A person commits an offence if he obstructs an inspector or any other person discharging, or attempting to discharge, functions conferred by or under this Part.

Power of entry

Power of entry

- 36G(1) An inspector or a constable may at all reasonable times enter any premises for the purpose of—
- (a) carrying out any function he has under or in pursuance of this Part, or
 - (b) ascertaining whether any such function should be exercised.
- (2) Subsection (1) does not apply to premises used only as a private dwelling-house unless 24 hours' notice of the intended entry is given to the occupier.
- (3) A person acting under subsection (1) must, if required, show evidence of his authority to act under that subsection.

Warrants

- 36H(1) If a justice of the peace is satisfied on sworn information in writing that the first condition is satisfied and that the second or third condition is satisfied he may issue a warrant authorising a person mentioned in section 36G(1) to enter premises, if necessary using reasonable force, for the purpose there mentioned.
- (2) The information must include—
- (a) a statement as to whether any representations have been made by the occupier of the land or premises to an inspector concerning the purpose for which the warrant is sought;
 - (b) a summary of any such representations.
- (3) The first condition is that there are reasonable grounds for a person mentioned in section 36G(1) to enter premises for the purpose there mentioned.
- (4) The second condition is that each of the following applies to the occupier of the premises—
- (a) he has been informed of the decision to seek entry to the premises and of the reasons for that decision;
 - (b) he has failed to allow entry to the premises on being requested to do so by a person mentioned in section 36G(1);

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- (c) he has been informed of the decision to apply for the warrant.
- (5) The third condition is that—
 - (a) the premises are unoccupied or the occupier is absent and (in either case) notice of intention to apply for the warrant has been left in a conspicuous place on the premises, or
 - (b) an application for admission to the premises or the giving of notice of intention to apply for the warrant would defeat the object of entering the premises.
- (6) A warrant issued under this section remains in force for one month starting with the date of its approval by the justice of the peace, which date shall be clearly visible on the warrant.
- (7) A warrant issued under this section must be executed only at a reasonable hour unless the person authorised by the warrant to enter the premises thinks that the case is one of urgency.
- (8) In relation to any premises to which entry is obtained by virtue of a warrant under this section the Secretary of State must retain for a period of not less than 12 months beginning with the day after entry—
 - (a) a copy of the warrant;
 - (b) a copy of any record of the steps taken to effect entry to the premises and the actions taken on the premises by the person authorised by the warrant to enter the premises and any other person entering the premises with him.

Supplementary

- 36I (1) This section applies to a person who enters premises by virtue of section 36G(1) or under a warrant issued under section 36H (an authorised person).
- (2) An authorised person may take with him—
 - (a) such other persons as he thinks necessary to give him such assistance as he thinks necessary;
 - (b) such equipment as he thinks necessary.
 - (3) An authorised person may require any person on the premises who falls within subsection (4) to give him such assistance as he may reasonably require for the purpose mentioned in section 36G(1).
 - (4) The following persons fall within this subsection—
 - (a) the occupier of the premises;
 - (b) a person appearing to the inspector to have charge of animals on the premises;
 - (c) a person appearing to the inspector to be under the direction or control of a person mentioned in paragraph (a) or (b).
 - (5) An authorised person may—
 - (a) inspect any records (in whatever form they are held) relating to the keeping, acquisition or disposal of animals;
 - (b) seize and detain any records which he reasonably thinks may be needed as evidence in any proceedings under or by virtue of this Act.
 - (6) If an authorised person enters any unoccupied premises he must leave them as effectively secured against entry as he found them.

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- (7) If an authorised person enters any premises by virtue of a warrant issued under section 36H he must at the time of entry—
- (a) serve a copy of the warrant on the occupier of the premises, or (if the occupier is not on the premises)
 - (b) leave a copy of the warrant in a conspicuous place on the premises.

Offences

- 36J (1) A person commits an offence if without lawful authority or excuse (proof of which shall lie on him) he—
- (a) refuses admission to any premises to a person acting under section 36G above,
 - (b) obstructs or impedes him in so acting, or
 - (c) assists in any such obstruction or impeding.
- (2) A person commits an offence if—
- (a) he is required to give assistance under section 36I(3), and
 - (b) he fails to give it.

General

Compensation

- 36K The Secretary of State may make regulations providing for the payment by him of compensation in respect of loss suffered or costs incurred as a result of the exercise of a power conferred by or under this Part.

Orders and Regulations

- 36L (1) A power to make an order or regulations under this Part is exercisable by statutory instrument.
- (2) Such a statutory instrument is subject to annulment in pursuance of a resolution of either House of Parliament.

Interpretation

- 36M In this Part—
- “keeper”, in relation to a sheep, includes an owner of the sheep;
 - “premises” includes any land, building or other place;
 - “restriction notice” means a notice given under section 36C.”

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