
 STATUTORY INSTRUMENTS

1978 No. 1483

ANIMALS

DISEASES OF ANIMALS

**The Brucellosis and Tuberculosis (England and Wales)
Compensation Order 1978**

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| <i>Made - - - -</i> | 17th October 1978 |
| <i>Laid before Parliament</i> | 18th October 1978 |
| <i>Coming into Operation</i> | 8th November 1978 |

The Minister of Agriculture, Fisheries and Food, as respects England, and the Secretary of State, as respects Wales, in exercise of the powers conferred by sections 17(3), 19(7) and 85(1) of the Diseases of Animals Act 1950(a) and now vested in the said Minister in relation to England and the Secretary of State in relation to Wales(b), as applied to brucellosis by article 24 of the Brucellosis (England and Wales) Order 1978(c) and to tuberculosis by article 18 of the Tuberculosis Order 1964(d), and of all their other enabling powers, with the approval of the Treasury, hereby make the following order:—

Citation and commencement

1. This order, which may be cited as the Brucellosis and Tuberculosis (England and Wales) Compensation Order 1978 shall come into operation on 8th November 1978.

Interpretation

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

“accredited herd” means a herd which, to the satisfaction of the Minister in relation to a herd in England or of the Secretary of State in relation to a herd in Scotland or Wales either—

(a) has been found to be free from brucellosis by means of a series of diagnostic tests carried out by him or on his behalf; or

(b) has been wholly constituted by the transfer of animals from other accredited herds in Great Britain or from such similar herds outside Great Britain as the Minister, in relation to herds in England, or the Secretary of State in relation to herds in Scotland or in Wales, may either generally or in any special case allow;

“The Act” means the Diseases of Animals Act 1950, as amended or extended by any other Act;

“affected animal” means—

(a) in relation to brucellosis, a bovine animal which is affected with brucellosis, and

(b) in relation to tuberculosis, a cow which is affected with

(a) 1950 c. 36. For change of title of the Minister, see S.I. 1955/554.

(b) In the case of the Secretary of State by virtue of Section 2 of, and Schedule 1 to, the Transfer of Functions (Wales) (No. 1) Order 1978. (S.I. 1978/272).

(c) S.I. 1978/1480.

(d) S.I. 1964/1151.

tuberculosis of the udder or is giving tuberculous milk, or a bovine animal which is affected with tuberculous emaciation, or is excreting or discharging tuberculous material, or is affected with a chronic cough and shows clinical signs of tuberculosis;

“the appropriate Minister” means the Minister in relation to England, and the Secretary of State in relation to Wales;

“bovine animal” means a bull, cow, steer, heifer or calf;

“brucellosis” means the disease caused by *brucella abortus*, otherwise known as epizootic abortion or contagious abortion;

“the Minister” means the Minister of Agriculture, Fisheries and Food;

“reactor” means an animal which gives rise to a reaction consistent with its being affected with brucellosis or tuberculosis when tested for that disease either by or on behalf of the Minister or the Secretary of State or otherwise, as the case may be, provided that in the case of a test otherwise so carried out the result thereof has been reported to the Minister or the Secretary of State.

- (2) For the purpose of this order the animals comprised in a herd include—
- (a) any animal which is isolated on the premises on which the herd is kept for the purpose of its being incorporated in the herd, and
 - (b) any animal which is temporarily removed from the herd.
- (3) The Interpretation Act 1889(a) applies to the interpretation of this order as it applies to the interpretation of an Act of Parliament and as if this order and the orders revoked by it were Acts of Parliament.

Compensation for, and ascertainment of value of, bovine animals slaughtered for brucellosis or tuberculosis

3.—(1) Where the appropriate Minister causes a bovine animal to be slaughtered under the powers conferred by section 17 of the Act in its application to brucellosis or tuberculosis the compensation payable by him shall, subject to article 4 of this order, be the amount determined in accordance with the following provisions of this article.

- (2) The said compensation shall be—
- (a) where the slaughtered animal is an affected animal or a reactor, the sum of £425 or an amount equal to 75% of its market value, whichever is the less;
 - (b) subject to sub-paragraph (c) below, where the slaughtered animal has been exposed to the infection of brucellosis or tuberculosis, an amount equal to its market value;
 - (c) where the slaughtered animal has been exposed to the infection of brucellosis or tuberculosis and is or was comprised in a herd which is not an accredited herd and which is undergoing a series of diagnostic tests for brucellosis, the said compensation shall be an amount equal to 75% of its market value.
- (3) (a) Notwithstanding the provisions of article 3 of the Diseases of Animals (Ascertainment of Compensation) Order 1959(b), the market value of a bovine animal which the appropriate Minister proposes to cause to be slaughtered

(a) 1889 c. 63.

(b) S.I. 1959/1335.

shall, for the purposes of payment of compensation under this order, be determined—

- (i) by agreement between the appropriate Minister and the owner of the animal,
- (ii) by one valuer appointed jointly by the appropriate Minister and the said owner,
- or
- (iii) failing such agreement, or failing such agreement or appointment, by a valuer nominated by the President of the Royal Institution of Chartered Surveyors.

(b) A valuer appointed or nominated under subparagraph (ii) or (iii) of the above paragraph shall be paid by the appropriate Minister and shall give to the appropriate Minister and the owner a certificate in writing of the said value.

(c) For the purpose of obtaining an agreement under paragraph (a)(i) above the appropriate Minister may employ a valuer to agree the market value.

(d) In this paragraph a reference to a valuer shall be construed as a reference to an individual, and not to a company or firm or to two or more persons jointly.

(4) For the purposes of this article, the market value of a bovine animal is the price which might reasonably have been obtained for it at the time of valuation from a purchaser in the open market—

- (a) in the case of an animal which was not comprised in an accredited herd, if it had been comprised in an accredited herd;
- (b) in the case of an affected animal or a reactor, if the animal were not an affected animal or a reactor;
- (c) in the case of an animal which has been exposed to the infection of brucellosis or tuberculosis, if it had not been so exposed.

Compensation for “control animals”

4.—(1) Notwithstanding anything in article 3 of this order, the compensation payable in respect of the slaughter of an animal to which this article applies, being an animal which the appropriate Minister causes to be slaughtered under the powers conferred by section 17 of the Act in its application to brucellosis or tuberculosis, shall consist only of the value of the carcase of the animal, less the expenses reasonably incurred by the appropriate Minister in relation to the animal before slaughter, to the slaughter of the animal and to the subsequent disposal of the carcase thereof.

(2) This article applies to any bovine animal (in this paragraph referred to as the “control animal”) as respects which it is a condition of an import licence issued under the Importation of Animals Order 1977(a) allowing any other bovine animal (in this paragraph referred to as “the imported animal”) to be landed in England and Wales that the control animal shall be placed with the imported animal during quarantine, there to serve as a control in relation to the imported animal as respects any disease of bovine animals.

Revocation

5. The orders listed in the Schedule to this Order are hereby revoked.

(a) S.I. 1977/944.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 10th October 1978.

(L.S.)

John Silkin,
Minister of Agriculture, Fisheries and Food.

12th October 1978.

John Morris,
Secretary of State for Wales.

We approve,

17th October 1978.

T. E. Graham,
A. W. Stallard,
Two of the Lords Commissioners of
Her Majesty's Treasury.

SCHEDULE

Article 5

| <i>Orders revoked</i> | <i>Reference</i> |
|---|------------------|
| The Tuberculosis (Compensation) Order 1964 | S.I. 1964/1150 |
| The Tuberculosis (Compensation) Amendment Order 1972 .. | S.I. 1972/814 |
| The Brucellosis (England and Wales) Compensation Order 1972 .. | S.I. 1972/1500 |
| The Tuberculosis (Compensation) Amendment Order 1976 .. | S.I. 1976/256 |
| The Brucellosis (England and Wales) Compensation (Amendment) Order 1976 | S.I. 1976/257 |
| The Brucellosis (England and Wales) Compensation (Amendment) Order 1977 | S.I. 1977/946 |
| The Tuberculosis (Compensation) (Amendment) Order 1977 .. | S.I. 1977/947 |
| The Brucellosis (England and Wales) Compensation (Amendment) (No. 2) Order 1977 | S.I. 1977/1908 |
| The Tuberculosis (Compensation) (Amendment) (No. 2) Order 1977 | S.I. 1977/1909 |

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order revokes and substantially re-enacts, with some amendments, the Tuberculosis (Compensation) Order 1964, as amended, and the Brucellosis (England and Wales) Compensation Order 1972, as amended.

The Order prescribes the scale of compensation payable for cattle slaughtered by the Minister or the Secretary of State under section 17 of the Diseases of Animals Act 1950 because the cattle are infected with brucellosis or tuberculosis, have shown a reaction to a test carried out by him or on his behalf consistent with their being affected with one of those diseases, or have been exposed to the infection of those diseases.

The market value of such slaughtered animals will be assessed as if they were contained in a brucellosis accredited herd, whether or not they were in fact so contained, and as if they were not affected animals or reactors and had not been exposed to the infection of brucellosis or tuberculosis, whether or not this was the case. The compensation payable, which is based on that market value, will then be as set out in Article 3(2). The Order contains an exception for cattle (referred to as "control animals") which are required to serve as controls in connection with the importation of cattle from overseas. Compensation for the slaughter of these animals is limited to their carcass value, less the Minister's reasonable expenses.

Finally, the Order provides for the method by which the market value of animals is to be determined.

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