

1978 No. 1485 (S. 137)

ANIMALS

DISEASES OF ANIMALS

The Brucellosis and Tuberculosis Compensation (Scotland)**Order 1978**

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

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 me (b), and as applied to brucellosis by article 3 of the Brucellosis (Scotland) Order 1972(c) and to tuberculosis by article 18 of the Tuberculosis (Scotland) Order 1964(d), and of all other powers enabling me in that behalf and with the approval of the Treasury, I hereby make the following order:—

Citation and commencement

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

Interpretation

2.—(1) In this order, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them—

“accredited herd” means a herd which to the satisfaction of the appropriate Minister 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 appropriate Minister 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 either—

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

(a) 1950 c. 36.

(b) By the Transfer of Functions (Animal Health) Order 1955 S.I. 1955/958.

(c) S.I. 1972/1539.

(d) S.I. 1964/1109.

“the appropriate Minister” means—

- (a) in relation to Scotland, the Secretary of State for Scotland;
- (b) in relation to England, the Minister of Agriculture, Fisheries and Food; and
- (c) in relation to Wales, the Secretary of State for 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;

“reactor” means a bovine animal which gives rise to a reaction consistent with its being affected with either brucellosis or tuberculosis when tested for either disease, either by or on behalf of the appropriate Minister 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 appropriate Minister.

(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) shall apply for the interpretation of this order as it applies for the interpretation of an Act of Parliament.

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

3.—(1) Where the Secretary of State 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 three-fourths of its market value, whichever is the less;
- (b) where the slaughtered animal has been exposed to the infection of brucellosis or tuberculosis—
 - (i) if the animal is comprised in a herd which is not an accredited herd and which is undergoing a series of diagnostic tests for brucellosis, an amount equal to three-fourths of its market value;
 - (ii) in all other cases, an amount equal to its market value.

(3) (a) Notwithstanding the provisions of article 4 of the Diseases of Animals (Ascertainment of Compensation) Order 1959(b), the market value of a bovine animal which the Secretary of State proposes to cause to be slaughtered shall for the purposes of payment of compensation under this order, be determined—

- (i) by agreement between the Secretary of State and the owner of the animal; or
- (ii) by agreement between two valuers, one appointed by the Secretary of State and the other by the said owner; or
- (iii) by one valuer appointed jointly by the Secretary of State and the said owner; or

(a) 1889 c. 63.

(b) S.I. 1959/1335.

- (iv) failing such agreement or appointment, by a valuer nominated by the President of the Institute of Auctioneers and Appraisers in Scotland.
 - (b) (i) A valuer or valuers appointed or nominated under subparagraph (a) above shall give a certificate in writing of the said market value to the Secretary of State and the said owner.
 - (ii) Any valuer appointed or nominated under subparagraph (a) above shall be paid by the Secretary of State.
 - (c) 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 it 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 Secretary of State 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 those expenses which may be reasonably incurred by the Secretary of State in relation to the animal before slaughter, in relation to the slaughter of the animal and in relation 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”) in respect of which there exists a condition in 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 Scotland 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.

(a) S.I. 1977/944.

Revocation and savings in part of existing orders

5. The orders specified in the Schedule to this order are hereby revoked.

New St. Andrew's House,
Edinburgh.
11th October 1978.

Bruce Millan,
One of Her Majesty's Principal
Secretaries of State.

We approve.
17th October 1978.

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

Article 5

SCHEDULE

The Brucellosis Compensation (Scotland) Order 1972	S.I. 1972/1538
The Brucellosis Compensation (Scotland) Amendment Order 1976	S.I. 1976/258
The Brucellosis Compensation (Scotland) Amendment Order 1977	S.I. 1977/989
The Brucellosis Compensation (Scotland) Amendment (No. 2) Order 1977	S.I. 1977/1905
The Tuberculosis (Compensation) (Scotland) Order 1964	S.I. 1964/1152
The Tuberculosis (Compensation) (Scotland) Amendment Order 1972	S.I. 1972/825
The Tuberculosis (Compensation) (Scotland) Amendment Order 1976	S.I. 1976/259
The Tuberculosis (Compensation) (Scotland) Amendment Order 1977	S.I. 1977/990
The Tuberculosis (Compensation) (Scotland) Amendment (No. 2) Order 1977	S.I. 1977/1906

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order revokes and substantially re-enacts a number of previous orders and amending orders concerned with the scale of compensation payable for cattle slaughtered by the Secretary of State on account of brucellosis or tuberculosis, under section 17 of the Diseases of Animals Act 1950. The slaughtered cattle in respect of which compensation is payable under the Order are either animals which are affected with brucellosis or tuberculosis, animals which have shown a reaction to a diagnostic test carried out by or on behalf of the Secretary of State consistent with their being affected with either disease, or animals which have been exposed to the infection of brucellosis or tuberculosis.

The compensation prescribed for affected animals and reactors will be payable at three-fourths of their full market value subject to a limit of £425 whether they come from brucellosis accredited or non-accredited herds. So far as animals other than affected animals or reactors are concerned compensation will be payable at full market value without limitation except where they are comprised in a non-accredited herd which is undergoing a series of diagnostic tests for brucellosis and in such cases compensation will be limited to three-fourths of their full market value. In all cases, market value will be assessed as if the slaughtered animals were contained in a brucellosis accredited herd, whether or not they were in fact so contained.

The Order also specifies the manner in which the market value of cattle is to be determined, and provides that, in default of agreement between the Secretary of State and the owner, or valuers acting on their behalf, as to the market value of the animal or the agreed appointment of a valuer, the question shall be referred for determination to a valuer appointed by the President of the Institute of Auctioneers and Appraisers in Scotland.

Finally, 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 on slaughter of such animals is limited to their carcase value, less the Secretary of State's reasonable expenses.

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