

PART 3

Miscellaneous

19. Surveillance
20. Vaccination against bluetongue
21. Powers of inspectors in case of default
22. General powers of inspectors
23. Damage
24. Licences
25. Licences granted outside England
26. Provision of assistance
27. Offences by bodies corporate
28. Enforcement
29. Revocation

This Order makes provision for a purpose mentioned in section 2(2) of the European Communities Act 1972^(a) and it appears to the Secretary of State that it is expedient for the reference to Commission Regulation (EC) No. 1266/2007 (on implementing rules for Council Directive 2000/75/EC as regards the control, monitoring, surveillance and restrictions on movements of certain species of susceptible animals in relation to bluetongue^(b)) to be construed as a reference to that Regulation as amended from time to time.

The Secretary of State makes the following Order in exercise of the powers conferred by paragraph 1A of Schedule 2 to the European Communities Act 1972 ^(c) and sections 1, 7(1), 8(1), 15(4), 17(1), 23, 25, 28, 32(2), 34, 35, 36, 83(2) and 88(2) of the Animal Health Act 1981^(d):

PART 1

Introduction

Title, application and commencement

1. This Order may be cited as the Bluetongue (No. 2) Order 2007; it applies in England and comes into force on 23rd November 2007.

Interpretation

2.—(1) In this Order—

“animal” means a ruminant animal, and “carcase”, “embryo”, “ovum” and “semen” mean the carcase, embryo, ovum and semen of such an animal;

“premises” includes any place; and

“midge” means an insect of the genus *Culicoides*.

(a) 1972 c.68.

(b) OJ No. L 283, 27.10.2007, p. 37.

(c) Paragraph 1A was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c. 51).

(d) 1981 c. 22. Powers to make Orders under these sections were originally conferred on “the Ministers” by section 86 of the Act. Those powers are now exercisable by the Secretary of State. Functions of “the Ministers” were transferred, so far as exercisable by the Secretaries of State for Scotland and Wales, to the Minister of Agriculture, Fisheries and Food by the Transfer of Functions (Agriculture and Food) Order 1999 (S.I. 1999/3141). Functions of the Minister of Agriculture, Fisheries and Food were then further transferred to the Secretary of State by the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794).

(2) Any authorisation, licence, notice or direction under this Order must be in writing, may be subject to conditions and may be amended, suspended or revoked by notice in writing at any time.

Extension of the definition of “disease”

3. The definition of “disease” in section 88(1) of the Animal Health Act 1981 is extended to include bluetongue.

Exemptions

4.—(1) This Order does not apply to bluetongue virus possessed under a licence issued under the Specified Animal Pathogens Order 1998(a).

(2) It does not apply to quarantine centres or quarantine facilities approved under the Animals and Animal Products (Import and Export) (England) Regulations 2006(b).

PART 2

Suspected and confirmed bluetongue

Initial requirements where bluetongue is known or suspected

5.—(1) The owner or keeper of any animal or carcase, or any person who examines or inspects any animal or carcase, who knows or suspects that the animal or carcase is infected with bluetongue, must—

- (a) immediately notify the Divisional Veterinary Manager; and
- (b) not move any animal or carcase on or off the premises where the animal or carcase known to be or suspected of being diseased is located, except as authorised by an inspector.

(2) A person who analyses a sample taken from any animal or carcase and who finds evidence of antibodies to, or antigens or nucleic acids of, the bluetongue virus or any evidence of vaccination for bluetongue must immediately notify the Divisional Veterinary Manager.

(3) In this article “Divisional Veterinary Manager” means the veterinary inspector authorised by the Secretary of State to receive information about animals or carcasses diseased or suspected of being diseased for the area in which such animals or carcasses are situated.

Suspected or infected premises

6.—(1) An inspector who knows or suspects that the bluetongue virus exists on any premises must immediately serve a notice on the occupier or on the keeper of any animals on those premises requiring that—

- (a) no animal, ovum, semen or embryo enters or leaves the premises;
- (b) an inventory of all animals on the premises is made, recording, for each species—
 - (i) the number dead;
 - (ii) the number alive that appear to have bluetongue; and
 - (iii) the number alive which do not appear to have bluetongue;
- (c) the inventory is kept up to date;
- (d) all animals on the premises are kept indoors or as directed by an inspector;
- (e) the premises and animals on them are subject to the midge control measures specified in the notice.

(a) S. I. 1998/463.

(b) S. I. 2006/1471.

(2) A veterinary inspector or an inspector acting under the direction of a veterinary inspector may also serve such a notice on the occupier of premises if the veterinary inspector suspects that animals on the premises have been exposed to the bluetongue virus.

(3) The person making the inventory must keep a record of it for at least two years.

Confirmation of bluetongue on premises

7.—(1) Once a veterinary inspector is satisfied that bluetongue exists on any premises, the veterinary inspector may serve a notice on the occupier of those premises—

- (a) confirming the existence of bluetongue on the premises; and
- (b) notifying the occupier that, notwithstanding article 5, it is unnecessary to notify any further suspected cases of bluetongue on the premises to the Divisional Veterinary Manager.

(2) The veterinary inspector may also serve a notice on the occupier of any laboratory analysing samples for bluetongue notifying the occupier that notwithstanding article 5, it is unnecessary to notify the Divisional Veterinary Manager of any further evidence of bluetongue, or vaccination for bluetongue, from the affected premises.

Powers of veterinary inspectors and officers

8. If a notice has been served under article 6, a veterinary inspector (and, other than in the case of examination of an animal, an inspector or an officer of the Secretary of State acting under the direction of a veterinary inspector) upon entering the premises may—

- (a) examine any animal, carcase or thing;
- (b) require the detention, isolation, restraint or treatment of any animal;
- (c) carry out an epidemiological investigation relevant to the control of bluetongue;
- (d) carry out tests and take samples (including blood samples) from any animal, carcase or thing for the purpose of diagnosis or epidemiological investigation;
- (e) mark for identification purposes any animal, carcase or thing;
- (f) trap midges;
- (g) implement midge control measures;
- (h) require the destruction, burial, disposal or treatment of any thing;
- (i) require the cleansing and disinfection of any part of the premises or of any person, animal or thing on the premises; or
- (j) require any person who knows about an animal's movements to give details of those movements and of any other animal with which it has been in contact.

Temporary control zones

9.—(1) If an inspector suspects that the bluetongue virus exists on any premises, the Secretary of State may declare a temporary control zone.

(2) When a temporary control zone has been established in Wales or Scotland which touches the border with England the Secretary of State may establish an associated temporary control zone in England.

(3) The location and size of the temporary control zone shall be such as the Secretary of State considers appropriate to prevent the spread of disease.

(4) Where a temporary control zone has been established, no person may move any animal on to or off premises in the zone except in accordance with a licence issued by a veterinary inspector.

(5) A temporary control zone ceases to exist in any area subsequently incorporated into a control zone or a restricted zone.

Measures on confirmation of the bluetongue virus

10.—(1) If the Chief Veterinary Officer confirms that the bluetongue virus is circulating in England, the Secretary of State, on being satisfied on epidemiological, geographical, ecological or meteorological grounds that this is appropriate for disease control purposes, must declare an area to be a control zone.

(2) The control zone must include the infected premises, and be of such size as the Secretary of State considers appropriate for disease control purposes.

(3) No person may move an animal to or from premises in a control zone.

Restrictions in protection and surveillance zones

11.—(1) If the Chief Veterinary Officer confirms that the bluetongue virus is circulating in England the Secretary of State—

(a) must declare an appropriate area to be a restricted zone, and

(b) may divide the restricted zone into two separate zones, a protection zone and a surveillance zone.

(2) No person may move an animal, semen, ovum or embryo out of a restricted zone except under the authority of a licence granted by an inspector.

(3) No person may move an animal from a protection zone to a surveillance zone except under the authority of a licence granted by an inspector.

(4) An inspector must grant a licence if the movement is permitted under Commission Regulation (EC) No. 1266/2007 as amended from time to time, and the conditions of any licence must be such as to ensure that the movement is made in accordance with that Regulation.

Premises straddling zones

12.—(1) Premises partly inside a temporary control zone and not inside any other zone are treated as being inside the temporary control zone.

(2) Premises partly inside a control zone are treated as being inside that zone.

(3) Otherwise—

(a) if a restricted zone has been divided into a protection zone and a surveillance zone premises partly inside the protection zone and partly inside the surveillance zone are treated as being inside the protection zone;

(b) premises partly inside a restricted zone and partly inside an area that does not have controls for bluetongue are treated as being inside the restricted zone; and

(c) premises partly inside a restricted zone and partly inside a temporary control zone are treated as being inside the restricted zone.

Powers of inspectors and officers in control or restricted zones

13.—(1) In a control or restricted zone, veterinary inspectors, officers authorised by the Secretary of State and inspectors have the powers they have in article 8.

(2) A veterinary inspector may also—

(a) require the occupier of premises in a protection zone or the keeper of any animal on such premises to allow the vaccination of any animal kept there; and

(b) require the occupier or keeper—

(i) to retain animals for use as sentinel animals, or

(ii) to allow the introduction of sentinel animals onto those premises.

(3) In this article “sentinel animal” means an animal that does not have antibodies to the bluetongue virus when first introduced or retained at the premises, and is used for surveillance for the bluetongue virus.

Slaughter of animals

14.—(1) The Secretary of State may designate slaughterhouses for the purposes of slaughtering animals transported out of a restricted zone.

(2) If an animal is transported from a restricted zone to a slaughterhouse outside the restricted zone in accordance with a licence, the occupier of the slaughterhouse must slaughter the animal within 24 hours of arrival.

Subsequent movement of animals

15. If an animal, semen, ovum or embryo that has been in a restricted zone is moved on to premises outside the restricted zone, an inspector may serve a notice on the occupier of those premises, and on the occupier of any premises to which the animal, semen, ovum or embryo is subsequently moved, prohibiting its movement from those premises except under the authority of a licence issued by an inspector.

Bluetongue outside England

16. If bluetongue is confirmed outside England, the Secretary of State may declare a temporary control zone, control zone or restricted zone in England if this is appropriate for disease control purposes.

Slaughter of animals

17. Section 32 of the Animal Health Act 1981 (which relates to slaughter and compensation) applies to bluetongue.

Declarations of zones

18. Declarations of zones—

- (a) must be in writing;
- (b) may be amended by further declaration at any time;
- (c) must designate the extent of the zone being declared; and
- (d) may only be revoked by further declaration.

PART 3

Miscellaneous

Surveillance

19. An officer of the Secretary of State may enter any premises on which animals are kept (whether or not in a control zone or restricted zone) for the purposes of monitoring or surveillance for the bluetongue virus or antibodies to the bluetongue virus.

Vaccination against bluetongue

20. No person may vaccinate an animal against bluetongue unless authorised by the Secretary of State.

Powers of inspectors in case of default

21. A notice served under this Order must be complied with at the expense of the person on whom it is served, and if it is not complied with an inspector may arrange for it to be complied with at the expense of that person.

General powers of inspectors

22. An inspector or officer of the Secretary of State who enters premises under this Order may take with him—

- (a) a vehicle;
- (b) any equipment; and
- (c) such other person as is appropriate.

Damage

23. No person may—

- (a) damage, interfere with or remove any traps set for midges under this Order; or
- (b) deface, obliterate or remove any mark made by any person under this Order.

Licences

24.—(1) A person moving anything under the authority of a specific licence granted under this Order must—

- (a) keep the licence or a copy of it with him at all times during the licensed movement;
- (b) on demand by a veterinary inspector or other officer of the Secretary of State or by an inspector, produce the licence or copy and allow a copy or extract to be taken.

(2) A person moving anything under the authority of a general licence granted under this Order must—

- (a) carry, at all times during the movement, a consignment note that contains details of—
 - (i) what is being transported, including the quantity;
 - (ii) the date of the movement;
 - (iii) the name of the consignor;
 - (iv) the address of the premises from which the movement started;
 - (v) the name of the consignee;
 - (vi) the address of the premises of destination;
- (b) on demand by a veterinary inspector or other officer of the Secretary of State or by an inspector, produce the consignment note and allow a copy or extract to be taken.

Licences granted outside England

25. Licences granted in Scotland or Wales for activities which could be licensed in England under this Order have effect in England as if they were licences granted under this Order.

Provision of assistance

26.—(1) Any person required to give reasonable assistance or information to a person acting under this Order must, unless he has reasonable cause, do so without delay.

(2) No person shall provide information which he knows to be false or misleading to a person acting under this Order.

Offences by bodies corporate

27.—(1) Where a body corporate is guilty of an offence under this Order, and that offence is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of—

- (a) any director, manager, secretary or other similar person of the body corporate; or

(b) any person who was purporting to act in any such capacity,
that person is guilty of the offence as well as the body corporate.

(2) For the purposes of this article, “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

Enforcement

28.—(1) This Order is enforced by the local authority.

(2) The Secretary of State may direct, in relation to cases of a particular description or to particular cases, that he will enforce this Order instead.

Revocation

29. The Bluetongue Order 2007^(a) is revoked.

22nd November 2007

Jonathan Shaw
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

(a) S I. 2007/3154.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order continues to implement Council Directive 2000/75/EC laying down specific provisions for the control and eradication of bluetongue. It revokes and remakes with changes the Bluetongue Order 2007 in order to enforce Commission Regulation (EC) No. 1266/2007.

The changes are that, following confirmation of bluetongue on any premises, a veterinary inspector may serve a notice removing the requirement for notification of further cases, and removing some or all of the restrictions on those premises (article 7). It also corrects an error in the previous Order concerning premises in one or more zones (article 12).

The Order provides that references to the Commission Regulation are references to it as amended from time to time (article 11(4)).

Part 2 of the Order provides for the reporting of symptoms of bluetongue and for the establishment of control zones and restricted zones. Unlike in the previous Order, these zones can now be of a size appropriate for the control of bluetongue. It controls the movement of animals from those zones. It also provides for the separation of a restricted zone into a protection zone and a surveillance zone, and controls movement between these zones.

It provides for surveillance for bluetongue (article 19) and prohibits vaccination against bluetongue without the consent of the Secretary of State (article 20).

Part 3 makes provision for enforcement.

It is enforced by the local authority.

Failure to comply with this Order is an offence under section 73 of the Animal Health Act 1981.

An Impact Assessment has not been prepared for this Order.

This Statutory Instrument has been made in consequence of a defect in SI 2007/3154 and is being issued free of charge to all known recipients of that Statutory Instrument

S T A T U T O R Y I N S T R U M E N T S

2007 No. 3304

ANIMALS, ENGLAND

ANIMAL HEALTH

The Bluetongue (No. 2) Order 2007

£3.00

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under the authority and superintendence of Carol Tullo, Controller of Her Majesty's
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E1617 11/2007 171617T 19585