
STATUTORY INSTRUMENTS

2012 No. 2629

The African Horse Sickness (England) Regulations 2012

PART 8

Inspection, enforcement and miscellaneous provisions

Notices

27.—(1) Any notice served or given under these Regulations must be in writing and may be amended, suspended or revoked in writing at any time.

(2) A notice may be served on or given to a person by—

- (a) personal delivery;
- (b) leaving it at the person's proper address; or
- (c) sending it by post or by electronic means to the person's proper address.

(3) In the case of a body corporate, a notice may be served on or given to an officer of that body.

(4) In the case of a partnership, a notice may be served on or given to a partner or a person having control or management of the partnership business.

(5) In the case of an unincorporated association, a notice may be served on or given to an officer of the association.

(6) For the purposes of this regulation and section 7 of the Interpretation Act 1978(1) (service of documents by post) in its application to this regulation, "proper address" means—

- (a) in the case of a body corporate or an officer of that body—
 - (i) the registered or principal office of that body, or
 - (ii) the email address of the officer;
- (b) in the case of a partnership or a partner or person having control or management of the partnership business—
 - (i) the principal office of the partnership, or
 - (ii) the email address of a partner or a person having that control or management;
- (c) in the case of an unincorporated association or an officer of the association—
 - (i) the office of the association, or
 - (ii) the email address of the officer;
- (d) in any other case, a person's last known address, which includes an email address.

(7) For the purposes of paragraph (6), the principal office of a body corporate registered outside the United Kingdom or of a partnership established outside the United Kingdom is its principal office in the United Kingdom.

(8) If the name or address of any occupier of premises on whom a notice is to be served or given under these Regulations cannot, after reasonable inquiry, be ascertained, the notice may be served by leaving it conspicuously affixed to a building or object on the premises.

(9) A person must comply with the terms of any notice served under these Regulations.

(10) In this regulation—

“body corporate” includes a limited liability partnership;

“director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate;

“officer”, in relation to a body corporate, means any director, manager, secretary or other similar officer of the body corporate;

“partnership” does not include a limited liability partnership.

Licences

28.—(1) A licence granted under these Regulations must be in writing and may be—

- (a) general or specific;
- (b) subject to conditions; and
- (c) amended, suspended or revoked in writing at any time.

(2) A person moving any horse, equipment or genetic material under the authority of a specific licence must—

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

(3) Where a licence is required or authorised under these Regulations to be granted by a veterinary inspector, it may also be granted by an inspector acting under the direction of a veterinary inspector.

(4) A person moving any horse, equipment or genetic material under the authority of a general licence must—

- (a) carry, at all times during the movement, a document containing details of—
 - (i) what is being transported, including the quantity,
 - (ii) the date of the movement,
 - (iii) the name of the person responsible for the horse or equipment at both the place of departure and at the place of destination,
 - (iv) the address of the place of departure and of the destination;
- (b) on demand by an inspector or other officer of the Secretary of State, produce the document and allow a copy or extract to be taken; and
- (c) keep the document for at least six months.

(5) If any horse, equipment or genetic material has been moved to premises under a licence, a veterinary inspector may serve a notice on any occupier of the premises of destination imposing such movement restrictions on those premises as are necessary to prevent the risk of spreading African horse sickness virus.

(6) Except where otherwise directed by the Secretary of State, licences granted in Scotland or Wales for activities which could be licensed in England under these Regulations have effect in England as if they were licences granted under these Regulations, and the provisions of this regulation apply accordingly.

Powers of inspectors

29.—(1) An inspector may, on producing a duly authenticated authorisation if requested, enter any premises, vehicle, vessel or trailer (except any premises used wholly or mainly as a private dwelling house) at any reasonable hour for the purpose of executing or enforcing these Regulations.

(2) A justice of the peace may by signed warrant permit an inspector to enter any premises, if necessary by reasonable force, if the justice, on sworn information in writing, is satisfied—

- (a) that there are reasonable grounds to enter those premises for the purpose of executing or enforcing these Regulations; and
- (b) that any of the conditions in paragraph (3) are met.

(3) The conditions are—

- (a) entry to the premises has been, or is likely to be, refused, and notice of the intention to apply for a warrant has been given to the occupier;
- (b) asking for admission to the premises, or giving such a notice, would defeat the object of the entry;
- (c) entry is required urgently; or
- (d) the premises are unoccupied or the occupier is temporarily absent.

(4) A warrant is valid for three months.

(5) An inspector entering any premises which are unoccupied or from which the occupier is temporarily absent must leave them as effectively secured against unauthorised entry as they were before entry.

(6) An inspector entering any premises, vehicle, vessel or trailer may—

- (a) inspect any horse or thing there;
- (b) take samples;
- (c) seize and destroy any equipment or genetic material;
- (d) detain or isolate any animal or thing;
- (e) mark or microchip for identification purposes any animal or thing;
- (f) carry out any inquiries, examinations and tests;
- (g) undertake surveillance for vectors and implement vector control measures (including the introduction of any sentinel horse);
- (h) have access to, inspect and copy any documents or records (in whatever form they are held) relevant to these Regulations, and remove them to enable them to be copied;
- (i) inspect and check the operation of any computer and any associated apparatus or material that is or has been in use in connection with records;
- (j) require by notice served on the occupier of the premises—
 - (i) any animal to be marked or microchipped for identification purposes;
 - (ii) any animal or thing (including a vehicle or trailer) to be moved to a specified destination or to be moved to or kept in a particular part of the premises;
 - (iii) the undertaking of surveillance for the presence of insects;
 - (iv) the implementation of such vector control measures as the inspector considers practical and necessary;
 - (v) horses to be retained for use as sentinel horses or sentinel horses to be introduced onto those premises.

(7) Where an inspector has entered any premises, vehicle, vessel or trailer and it is not reasonably practicable to determine whether documents on those premises are relevant to these Regulations, the inspector may seize them to ascertain whether or not they are relevant.

(8) The inspector may—

- (a) take any necessary equipment, sentinel horse or vehicle on to the premises;
- (b) be accompanied by—
 - (i) such other persons as the inspector considers necessary, and
 - (ii) any representative of the European Commission.

(9) Any power or obligation to take a sample and test it includes a power to—

- (a) re-test the sample, and
- (b) take further samples (from the animals or carcasses subject to that power or, in the case of environmental samples, take further environmental samples) and test and re-test those samples.

(10) In this regulation, a sentinel horse is a horse used for surveillance for African horse sickness virus which does not have antibodies to that virus when introduced to or retained at the premises for that purpose.

Notice following a contravention on movement

30.—(1) If a horse has been moved to any premises in contravention of any provision of these Regulations or any licence or notice served under these Regulations, an inspector may serve a notice on the main occupier of those premises requiring—

- (a) that horse, or any other horse on the premises, to be detained on the premises, or
- (b) any horse on the premises to be moved to other premises specified in the notice.

(2) If a horse has been moved to other premises under such a notice, an inspector may serve a notice on any occupier of those other premises imposing such movement restrictions relating to horses on those premises as the inspector considers necessary to reduce the risk of spreading African horse sickness virus.

Change of main occupier of premises under restriction – access for welfare purposes

31. If there is a change of main occupier of premises under any restriction under these Regulations, the new main occupier must allow the owner of any horse on the premises, or any person acting on behalf of the owner, to enter the premises to feed or otherwise attend to the welfare of the horse during the period of restriction and for seven days following its end.

Powers of inspectors in case of default

32. If any person fails to comply with a requirement in or under these Regulations, an inspector may take such steps as that inspector considers necessary to ensure the requirement is met at the expense of that person.

Compensation for horses killed and things seized

33.—(1) The Secretary of State, in accordance with this regulation—

- (a) may pay compensation for any horse killed under regulation 12 or 16(6)(e);
- (b) must pay compensation for anything seized under these Regulations, unless it is returned.

(2) No compensation is payable for a horse that, at the time it was killed, was affected with African horse sickness.

(3) The amount of any compensation payable under paragraph (1)(a)—

- (a) subject to sub-paragraph (b), is the value of the horse immediately before it was killed;
- (b) may not in any case exceed £2500 for any horse.

(4) The amount of any compensation payable under paragraph (1)(b)—

- (a) subject to sub-paragraph (b), is the value of the thing seized at the time of its seizure;
- (b) in the case of any genetic material coming from the same horse, may not in any case exceed £2500 (regardless of the nature or number of items of genetic material seized).

(5) The value of the horse or thing seized (as the case may be) is—

- (a) the amount determined in writing by the Secretary of State (“the Secretary of State’s valuation”), or
- (b) where the determination of the value has been referred to an appointed valuer under paragraph (6), the amount determined in writing by that valuer instead.

(6) If—

- (a) the Secretary of State’s valuation is less than £2500, and
- (b) within 14 days after receiving the Secretary of State’s valuation, the owner of the horse killed or (as the case may be) the thing seized gives written notice to the Secretary of State disputing that valuation, with reasons,

the Secretary of State must refer the determination of the value to an appointed valuer.

(7) The appointed valuer must be a person—

- (a) appointed jointly by the owner and the Secretary of State for the purpose of conducting a valuation under this regulation, or
- (b) failing agreement on such appointment within 10 days of receipt of the notice given under paragraph (6), appointed by the Secretary of State for that purpose.

(8) The determination of value by the appointed valuer is final and binding on the Secretary of State and the owner (but this is subject to paragraphs (3)(b) and (4)(b)).

(9) Fees charged or expenses incurred by an appointed valuer for work done under this regulation must be paid—

- (a) where the valuer’s determination is equal to or less than the Secretary of State’s valuation, by the owner,
- (b) otherwise, by the Secretary of State.

(10) Nothing in this regulation authorises any delay in the killing of a horse for the purposes of controlling African horse sickness.

Obstruction

34. No person may—

- (a) intentionally obstruct or impede anyone acting in the execution or enforcement of these Regulations;
- (b) without reasonable cause, proof of which lies on the person charged, fail to give to any person acting in the execution or enforcement of these Regulations any assistance or information that is reasonably required;
- (c) provide to anyone acting in the execution or enforcement of these Regulations any information knowing it to be false or misleading or not believing it to be true; or

- (d) fail to produce a record when required to do so by any person acting in the execution or enforcement of these Regulations.

Offences and penalties

35.—(1) A person is guilty of an offence if that person fails to comply with any of the following provisions—

- (a) regulation 3(4) (occupier to give reasonable assistance to enable main occupier to comply with obligations);
 - (b) regulation 3(5) (main occupier to take reasonable steps to inform other occupiers of movement restrictions arising from notice);
 - (c) regulation 5(1) or (2) (requirement to notify Secretary of State of suspect horse or carcass etc);
 - (d) regulation 7(7)(a)(i), (ii) or (iii) (prohibition on movement of notified horse or carcass; equipment or genetic material; or other horses);
 - (e) regulation 7(7)(b)(i) or (ii) (obligation to move horses and identify vectors etc);
 - (f) regulation 11(3) (prohibition on persons moving horses onto premises);
 - (g) regulation 14(5)(a), (b) or (c) (controls relating to slaughterhouses);
 - (h) regulation 17(4) (prohibition on unlicensed movement within temporary movement restriction zone);
 - (i) regulation 18(7) (prohibition on unlicensed movement out of protection zone or out of surveillance zone to an area free from restrictions);
 - (j) regulation 18(8)(a) or (b) (prohibition on unlicensed movement of asses etc or movement of horses showing clinical signs of African horse sickness);
 - (k) regulation 21(3) (obligation to comply with restrictions and measures imposed by declaration under regulation 17(5), 18(9), or 19(3));
 - (l) regulation 24 (prohibition on vaccination);
 - (m) regulation 25(2) (requirement to vaccinate in accordance with declaration of vaccination zone);
 - (n) regulation 26(1) or (2) (requirement to identify vaccinated horse and to keep records; prohibition on unlicensed movement of vaccinated horse);
 - (o) regulation 27(9) (requirement to comply with notice);
 - (p) regulation 28(2)(a) or (b) (requirement to carry licence or copy; requirement to produce etc licence);
 - (q) regulation 28(4)(a), (b) or (c) (requirement to carry document; requirement to produce etc document; requirement to keep document);
 - (r) regulation 31 (obligation on new main occupier to allow entry for purposes of feeding or welfare);
 - (s) regulation 34 (obstruction);
 - (t) paragraph 1, 2, or 4 of the Schedule (requirement to keep records etc; requirement as to housing of horses; requirement to implement vector control);
 - (u) paragraph 3 of the Schedule (prohibition on unlicensed movement).
- (2) A person guilty of an offence is liable—
- (a) on summary conviction—

- (i) in the case of conviction for an offence under paragraph (1)(b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (m), (o), (s) or (u) to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding three months, or both,
 - (ii) in the case of conviction for any other offence under paragraph (1) to a fine not exceeding the statutory maximum, or
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding six months or both.

Offences by bodies corporate

36.—(1) If an offence under these Regulations committed by a body corporate is proved—

- (a) to have been committed with the consent or connivance of an officer, or
- (b) to be attributable to any neglect on the part of an officer,

the officer, as well as the body corporate, is guilty of the offence and liable to be proceeded against and punished accordingly.

(2) In paragraph (1) “officer”, in relation to a body corporate, means—

- (a) a director, manager, secretary or other similar officer of the body, or
- (b) a person purporting to act in any such capacity.

(3) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with the member’s functions of management as it applies to an officer of a body corporate.

Offences by partnerships and unincorporated associations

37.—(1) Proceedings for an offence under these Regulations alleged to have been committed by a partnership or an unincorporated association may be brought against the partnership or association in the name of the partnership or association.

(2) For the purposes of such proceedings—

- (a) rules of court relating to the service of documents are to have effect as if the partnership or association were a body corporate; and
- (b) section 33 of the Criminal Justice Act 1925(2) and Schedule 3 to the Magistrates’ Courts Act 1980(3) apply in relation to the partnership or association as they apply in relation to a body corporate.

(3) A fine imposed on a partnership or association on its conviction of an offence under these Regulations is to be paid out of the funds of the partnership or association.

(4) Where an offence under these Regulations committed by a partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, that partner (as well as the partnership) is guilty of the offence and is liable to be proceeded against and punished accordingly.

(5) For these purposes, “partner” includes a person purporting to act as a partner.

(2) [1925 c. 86](#). Subsections (1), (2) and (5) of section 33 were repealed by the Magistrates’ Court Act [1952 \(c. 55\)](#), section 132 and Schedule 6; subsection (3) was amended by the Courts Act [1971 \(c. 23\)](#), section 56(1) and Schedule 8, Part 2, paragraph 19; subsection (4) was amended by the Courts Act [2003 \(c. 39\)](#), section 109(1) and (3), Schedule 8, paragraph 71 and Schedule 10.

(3) [1980 c. 43](#). Paragraph 2(a) of Schedule 3 was amended by the Criminal Procedure and Investigations Act [1996 \(c. 25\)](#), section 47, Schedule 1, paragraph 13, and was repealed by the Criminal Justice Act [2003 \(c. 44\)](#), sections 41 and 332, Schedule 3, Part 2, paragraph 51 (1) and (13)(a), and Schedule 37, Part 4 (with effect from a date to be appointed); paragraph 5 was repealed by the Criminal Justice Act [1991 \(c. 53\)](#), sections 25(2) and 101(2) and Schedule 13; paragraph 6 was repealed by the Criminal Justice Act 2003, section 41, Schedule 3, Part 2, paragraph 51(1) and (13)(b) (with effect from a date to be appointed).

- (6) If an offence under these Regulations committed by an unincorporated association is proved—
- (a) to have been committed with the consent or connivance of, or
 - (b) to be attributable to any neglect on the part of, an officer of the association,
- the officer, as well as the association, is guilty of the offence and is liable to be proceeded against and punished accordingly.
- (7) In paragraph (6), “officer”, in relation to an unincorporated association, means—
- (a) an officer of the association or a member of its governing body, or
 - (b) a person purporting to act in such capacity.

Enforcement

- 38.**—(1) These Regulations are enforced by the local authority.
- (2) But the Secretary of State may direct, in relation to cases of a particular description or in relation to particular cases, that the Secretary of State will enforce these Regulations instead.
- (3) Where the Secretary of State makes a direction under paragraph (2), the Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of an offence under these Regulations.
- (4) In paragraph (1), “local authority” means—
- (a) where there is an authority which is the sole principal council for its local government area (“a unitary authority”), that authority;
 - (b) where there is not a unitary authority—
 - (i) in a metropolitan district, the council of that district;
 - (ii) in a non-metropolitan county, the county council;
 - (iii) in each London borough the council of that borough; or
 - (iv) in the City of London the Common Council.

Exceptional circumstances

- 39.** A veterinary inspector may for the purpose of ensuring the health or welfare of any horse—
- (a) license a person to carry out any action that is otherwise prohibited under these Regulations; or
 - (b) exempt a person, by notice, from any requirement under these Regulations.

Amendments

- 40.**—(1) In the Specified Diseases (Notification and Slaughter) Order 1992(4), in article 2 omit the reference to African horse sickness.
- (2) In the Specified Diseases (Notification) Order 1996(5), in Part 1 of Schedule 1 omit the reference to African horse sickness.

Review

- 41.**—(1) The Secretary of State must from time to time—
- (a) carry out a review of these Regulations,

(4) [S.I. 1992/3159](#), relevant amending instruments are [S.I. 2003/130](#) and [2006/2166](#).

(5) [S.I. 1996/2628](#), relevant amending instruments are [S.I. 1998/1645](#), [2003/130](#), [2006/2166](#) and [2009/2713](#).

- (b) set out the conclusions of the review in a report, and
- (c) publish the report.

(2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how Council Directive [92/35/EEC](#) laying down control rules and measures to combat African horse sickness⁽⁶⁾ (which is implemented by means of these Regulations) is implemented in other member States.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by these Regulations,
- (b) assess the extent to which those objectives are achieved, and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(4) The first report under this regulation must be published before the end of the period of 5 years beginning with the day on which these Regulations come into force.

(5) Reports under this regulation are afterwards to be published at intervals not exceeding 5 years.

(6) OJ L No 157, 10.6.1992 p 19.