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SCOTTISH STATUTORY INSTRUMENTS

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**2006 No. 44**

**The Foot-and-Mouth Disease (Scotland) Order 2006**

**PART 1**

**Introduction**

**Citation, commencement and extent**

1.—(1) This Order may be cited as the Foot-and-Mouth Disease (Scotland) Order 2006 and shall come into force on 23rd February 2006.

(2) This Order extends to Scotland only.

**Interpretation**

2.—(1) In this Order—

“the Act” means the Animal Health Act 1981;

“animal gathering” means an event at which animals are brought together, including a market, show or fair, but not any occasion at which animals are brought together on the premises on which they are kept;

“animal product” means anything originating or made (whether in whole or in part) from an animal or from a carcass;

“associated protection zone” means, in relation to a surveillance zone, the protection zone centred on the same premises as that surveillance zone;

“border inspection post” means, except in article 31, a place specified as a border inspection post in Schedule 2 to the Animals and Animal Products (Import and Export) (Scotland) Regulations 2000(1);

“bovine animal” includes buffalo and bison;

“Chief Veterinary Officer (Scotland)” means the Chief Veterinary Officer of the Scottish Executive;

“collecting centre” means premises used for the intermediate reception of animals intended to be moved elsewhere;

“contact premises” means any premises declared to be contact premises under article 13;

“contaminated” means directly or indirectly exposed to disease, and “contamination” shall be construed accordingly;

“the Department” means the Scottish Executive Environment and Rural Affairs Department;

“the Directive” means Council Directive [2003/85/EC](#) on Community measures for the control of foot and mouth disease repealing Directive [85/511/EEC](#) and Decisions [89/531/EEC](#) and [91/665/EEC](#) and amending Directive [92/46/EEC](#)(2);

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(1) [S.S.I. 2000/216](#), to which there are amendments not relevant to this Order.

(2) [O.J. No. L 306, 22.11.03, p.1.](#)

“disease” means foot-and-mouth disease;

“dispose” means treat as Category 1, Category 2 or Category 3 material (as the case may be) under Regulation (EC) No. 1774/2002 of the European Parliament and of the Council laying down health rules concerning animal by-products not intended for human consumption<sup>(3)</sup> and the Animal By-Products (Scotland) Regulations 2003<sup>(4)</sup>, and “disposed” and “disposal” shall be construed accordingly;

“Divisional Veterinary Manager” means the Divisional Veterinary Manager of the State Veterinary Service for the area in which premises are located;

“emergency slaughter” means slaughter in emergency circumstances of animals which are not infected or contaminated and includes slaughter for welfare purposes;

“falconry” means the use of falcons, hawks or other birds of the order *Falconiformae* to hunt for game or other wildlife;

“fodder” means animal feed and includes hay, straw and forage;

“free unit” means a separate production unit declared to be a free unit under article 12;

“fresh meat” means meat (including offal) that has not undergone any preserving process other than chilling, freezing or quick-freezing, including meat that is vacuum wrapped or wrapped in a controlled atmosphere;

“health marked” means bearing the health mark required by article 5(2) of Regulation (EC) No. 854/2004 of the European Parliament and of the Council laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption<sup>(5)</sup> and “health mark” shall be construed accordingly;

“horse” means a domestic animal of the equine or asinine species or crossbreeds of those species;

“hyper-immune serum” means material containing antibodies to the disease, either produced from animals subject to repeated vaccination or by another method;

“identification marked” means bearing the identification mark required by article 5(1) of Regulation (EC) No. 853/2004 of the European Parliament and of the Council laying down specific hygiene rules for food of animal origin<sup>(6)</sup> and “identification mark” shall be construed accordingly;

“incubation period” means—

- (a) for cattle, pigs and other bovine animals and swine, 14 days; and
- (b) for other susceptible animals, 21 days;

“infected” means infected with disease and “infection” shall be construed accordingly;

“infected premises” means any premises declared to be infected premises under article 11(11);

“infection date” means, in respect of any premises, any date confirmed by the Scottish Ministers under article 11(11) as the earliest date disease was present there;

“inspector” means an inspector appointed under the Act and an officer of the Scottish Ministers appointed for the purposes of this Order, and when used in relation to a member of the staff of the Scottish Ministers, includes a veterinary inspector;

“keeper” means any person responsible for animals, whether on a permanent or temporary basis, but does not include any person who is responsible for animals solely because that person is transporting them;

(3) O.J. No. L 273, 10.10.02, p.1 as amended by Commission Regulation (EC) No. 808/03 (O.J. No. L 117, 13.5.03, p.1).

(4) S.S.I. 2003/411.

(5) O.J. No. L 139, 30.4.04, p.206. The revised text of the Regulation is contained in a corrigendum (O.J. No. L 226, 25.6.2004, p.83).

(6) O.J. No. L 139, 30.4.04, p.55. The revised text of the Regulation is contained in a corrigendum (O.J. No. L 226, 25.6.04, p.22).

“meat preparation” means fresh meat, including meat that has been reduced to fragments, which has had foodstuffs, seasonings or additives added to it or which has undergone processes insufficient to modify the internal muscle fibre structure of the meat and thus to eliminate the characteristics of fresh meat;

“meat product” means a processed product resulting from the processing of meat or from the further processing of such processed products, so that the cut surface shows that the product no longer has the characteristics of fresh meat;

“mechanically separated meat” means the product obtained by removing meat from flesh-bearing bones after boning, using mechanical means resulting in the loss or modification of the muscle fibre structure;

“milk” includes cream, separated milk, skimmed milk and buttermilk;

“milk product” includes butter, cheese, yoghurt, whey and any other product the main constituent of which is milk;

“minced meat” means boned meat that has been minced into fragments and contains less than 1% salt;

“occupier” means, in relation to any premises, the person in charge of those premises;

“overstamped” means, in relation to a health marked or identification marked item, bearing an additional diagonal cross consisting of two straight lines intersecting at the centre of the health mark or identification mark and allowing the information there to remain legible (whether or not that additional cross is applied by the same stamp as the health mark);

“premises” includes any land, building or other place;

“protection zone” means a protection zone declared under article 30 or 31;

“public highway” means a highway maintainable at the public expense;

“raw milk” means milk that has not been heated to more than 40 degrees centigrade or undergone any treatment that has an equivalent effect;

“the Regulations” means the Foot and Mouth Disease (Slaughter and Vaccination) (Scotland) Regulations 2006<sup>(7)</sup>;

“restricted zone” means a restricted zone declared under article 37;

“seasonings” means salt, mustard, spices and aromatic spice extracts, or aromatic herbs and aromatic herb extracts;

“sell” means sell to the final consumer or user and “sale” in the expression “consign for sale” shall be construed accordingly;

“slaughterhouse” means an establishment used for slaughtering and dressing animals, the meat of which is intended for human consumption and which—

- (a) is approved or conditionally approved under article 31(2) of Regulation (EC) No. 882/2004 of the European Parliament and of the Council on official controls performed to ensure the verification of feed and food law, animal health and animal welfare rules<sup>(8)</sup>; or
- (b) although lacking the approval or conditional approval that it requires under article 4(3) of Regulation (EC) No. 853/2004 was, on 31st December 2005, operating as a licensed slaughterhouse under the Fresh Meat (Hygiene and Inspection) Regulations 1995<sup>(9)</sup> or the Poultry Meat, Farmed Game Bird Meat and Rabbit Meat (Hygiene and Inspection) Regulations 1995<sup>(10)</sup>;

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(7) S.S.I. 2006/.

(8) O.J. No. L 165, 30.4.2004, p.1. The revised text of the Regulation is contained in a corrigendum (O.J. No. L 191, 28.5.04, p.1).

(9) S.I.1995/539, revoked in England by S.I. 2005/2059, in Scotland by S.S.I. 2005/505 and in Wales by S.I. 2005/3292.

(10) S.I. 1995/540, revoked in England by S.I. 2005/2059, in Scotland by S.S.I. 2005/505 and in Wales by S.I. 2005/3292.

“slaughter” includes killing within the meaning of that term in the Welfare of Animals (Slaughter or Killing) Regulations 1995<sup>(11)</sup> and carried out in such a way as to minimise the dispersal of disease virus;

“supplementary movement control zone” means a supplementary movement control zone declared under article 18;

“surveillance zone” means a surveillance zone declared under article 30 or 31;

“susceptible animal” means a cow, sheep, goat, deer, camel, llama, alpaca, guanaco, vicuna, any other ruminant, any swine (that is, a member of the suborder *Suina* of the order *Artiodactyla*), elephant or rodent (other than a pet rodent);

“suspected of being infected” means exhibiting clinical symptoms or showing post-mortem lesions or reactions to laboratory tests such that the presence of disease may reasonably be suspected;

“suspect premises” means any premises declared as suspect premises under article 11(7) or article 13;

“temporary control zone” means a temporary control zone declared under article 15;

“trimmed offal” means any of–

- (i) heart from which lymphatic glands, connective tissue and adhering fat has been completely removed;
- (ii) liver from which lymphatic glands, adhering connective tissue and fat has been completely removed;
- (iii) whole masseter muscles;
- (iv) tongues with epithelium and without bone, cartilage and tonsils;
- (v) lungs from which the trachea and main bronchi and the mediastinal and bronchial lymphatic gland have been removed;
- (vi) other offal without bone or cartilage from which lymphatic glands, connective tissue, adhering fat and mucous membrane have been removed.

“used litter” means any substance which has been used for the bedding of animals;

“vaccinated” means treated with vaccine against the disease;

“vaccination surveillance zone” and “vaccination zone” mean, respectively, a vaccination surveillance zone and a vaccination zone declared under the Foot-and-Mouth Disease (Slaughter and Vaccination) (Scotland) Regulations 2006<sup>(12)</sup>;

“vehicle” includes–

- (a) a trailer, semi-trailer or other thing which is designed or adapted to be towed by another vehicle;
- (b) a detachable part of a vehicle;
- (c) a container or other structure designed or adapted to be carried by or on a vehicle;

“wild animal infected zone” means a wild animal infected zone declared under article 39.

(2) References in this Order to “emergency slaughter” mean slaughter of animals which are not suspected of infection or contamination and are not on infected premises, where an inspector considers that the circumstances require urgent slaughter (including slaughter for welfare reasons).

(3) References in this Order to “susceptible animals originating in” in respect of a protection zone or surveillance zone or “susceptible animals originating on” in respect of infected premises mean–

<sup>(11)</sup> S.I. 1995/731, to which there are amendments not relevant to these Regulations.

<sup>(12)</sup> S.S.I. 2006/ .

- (a) susceptible animals kept in the protection zone or surveillance zone (after the declaration of the zone) or on the infected premises, as the case may be, and
  - (b) susceptible animals which were kept within the boundaries of the protection zone or surveillance zone or on the infected premises at any time during the period—
    - (i) beginning 21 days before the following date—
      - (aa) in the case of a protection zone, the earliest infection date on premises there;
      - (bb) in the case of a surveillance zone, the earliest infection date on premises in the associated protection zone;
      - (cc) in the case of infected premises, the infection date; and
    - (ii) ending with the declaration of the protection zone, surveillance zone or infected premises, as the case may be.
- (4) References in this Order to “susceptible animals originating in” in respect of a vaccination zone or temporary control zone or “susceptible animals originating on” in respect of suspect premises or contact premises mean—
- (a) susceptible animals kept in the vaccination zone or temporary control zone (after the declaration of the zone) or on the suspect premises or contact premises, as the case may be; and
  - (b) susceptible animals which were kept within the boundaries of the vaccination zone or temporary control zone or on the suspect premises or contact premises at any time during the period—
    - (i) beginning 21 days before the declaration of the vaccination zone or temporary control zone or suspect premises or contact premises, as the case may be; and
    - (ii) ending with that declaration.

### **Extension of definitions of “animals” and “poultry”**

3. For the purposes of the Act in its application to the disease and to this Order—
- (a) the definition of “animals” in section 87(1) of the Act is extended to include all four footed beasts;
  - (b) the definition of “poultry” in section 87(4) of the Act is extended to include all species of birds.

### **Premises comprising common or unenclosed land**

4. In this Order—
- (a) common or unenclosed land forms separate premises from other land unless—
    - (i) the parcels of land adjoin; and
    - (ii) all animals kept on both parcels of land are in the charge of the same keeper;
  - (b) a notice which is to be served on the occupier of premises wholly or partially comprising any common or unenclosed land is validly served if served on every keeper of animals kept there (so far as those persons are reasonably ascertainable);
  - (c) a requirement or restriction imposed on the occupier of premises wholly or partially comprising any common or unenclosed land applies to every keeper of animals kept there.

### **Licences, certificates and declarations**

- 5.—(1) Licences granted under this Order—

- (a) shall be in writing;
- (b) may, in addition to any conditions required by this Order, be made subject to such conditions as the Scottish Ministers consider necessary to control the disease; and
- (c) may be amended, suspended or revoked in writing at any time.

(2) Except where otherwise directed by the Scottish Ministers, a licence granted in England, Wales for the same purpose as a licence which may be granted under this Order shall be valid for that purpose in Scotland and its conditions shall apply in Scotland as if it was a licence granted under this Order.

(3) Certificates issued under this Order shall be in writing.

(4) Declarations made under this Order shall be in writing and may be amended or revoked by further declaration at any time.

### **Notices**

6.—(1) Notices issued under this Order—

- (a) shall be in writing; and
- (b) may be amended or revoked in writing at any time.

(2) A notice which—

- (a) is served on the occupier of premises; and
- (b) imposes a requirement or restriction in respect of those premises,

shall contain a description of the premises sufficient to enable the extent of the premises to be ascertained.

(3) Such a description may be amended by a veterinary inspector if the veterinary inspector is satisfied that it does not describe an appropriate area for the purposes of investigating and monitoring the spread of disease in respect of animals which are usually kept together.

### **Dissemination of information concerning restrictions and requirements**

7.—(1) The Scottish Ministers shall take such steps as they consider fit to ensure that certificates, licences, declarations and notices are brought to the attention of those who may be affected by them as soon as is reasonably practicable.

(2) They shall also ensure that—

- (a) the extent of any zone declared under this Order;
- (b) the nature of the restrictions and requirements applicable within the zone;
- (c) the date of its declaration; and
- (d) the date that declaration ceases to have effect in respect of the zone or any part of it, are publicised.