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SCOTTISH STATUTORY INSTRUMENTS

2012 No. 198

ANIMALS

AGRICULTURE

**The Trade in Animals and Related Products (Scotland)
Amendment Order 2012**

<i>Made</i>	- - - -	<i>20th June 2012</i>
<i>Laid before the Scottish Parliament</i>		<i>22nd June 2012</i>
<i>Coming into force</i>	- -	<i>1st July 2012</i>

The Scottish Ministers make the following Order in exercise of the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972(a), section 72 of the Animal Health Act 1981(b) and all other powers enabling them to do so(c).

This Order makes provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Scottish Ministers that it is expedient for the references to the EU instruments in articles 2 and 3 to be construed as references to those instruments as amended from time to time.

Citation and commencement

1. This Order—

- (a) may be cited as the Trade in Animals and Related Products (Scotland) Amendment Order 2012; and
- (b) comes into force on 1st July 2012.

(a) 1972 c.68. Section 2(2) was amended by the Scotland Act 1998 (c.46) (“the 1998 Act”), Schedule 8, paragraph 15(3) (which was amended by section 27(4) of the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”). Section 2(2) was also amended by section 27(1)(a) of the 2006 Act and by the European Union (Amendment) Act 2008 (c.7) (“the 2008 Act”), Schedule, Part 1. The functions conferred upon the Minister of the Crown under section 2(2), insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act. Paragraph 1A of Schedule 2 was inserted by section 28 of the 2006 Act and was amended by Schedule, Part 1 of the 2008 Act.

(b) 1981 c.22 (“the 1981 Act”). The power in section 72 is exercised only insofar as article 3 of this instrument creates an offence under the 1981 Act. The power to make orders under this section was originally conferred on “the Minister”, as defined in section 86(1) of the 1981 Act. The functions of the Minister were, insofar as within devolved competence, transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(c) The powers to make this Order are exercised together by virtue of section 33(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10). The Order is subject to the negative procedure by virtue of section 33(4) of that Act.

Amendment to the Trade in Animals and Related Products (Scotland) Regulations 2012

2.—(1) The Trade in Animals and Related Products (Scotland) Regulations 2012(a) are amended as follows.

(2) For regulation 23(3)(b) (re-importation of products) substitute—

“(b) dispose of any product comprising the consignment in accordance with Regulation (EC) No 1069/2009.”.

(3) In regulation 33 (offences)—

(a) immediately after sub-paragraph (c) omit “or”;

(b) for sub-paragraph (d) substitute—

“(d) fails to comply with regulation 6(6); or

(e) without reasonable excuse fails to comply with any of the following provisions—”;
and

(c) in the table—

(i) omit the entry for regulation 6(6);

(ii) in the entry for regulation 25(5), for “regulation 25(5)” substitute “regulation 25(4)”;
and

(iii) in the entry for paragraph 5(2) of Schedule 2, for “Keeping records” substitute “Obligations on circus operators”.

(4) In Schedule 2 (additional requirements in specific cases), in paragraph 5(2), for “keeping of records” substitute “obligations on circus operators”.

(5) Paragraph 1(b) of Schedule 4 (consequential amendments) is revoked.

Amendment to the Bluetongue (Scotland) Order 2008

3. In the Bluetongue (Scotland) Order 2008(b) after article 18 insert—

“PART 3A

Exports

18A.—(1) A person must not export to a third country any animal, semen, ovum or embryo unless it complies with the Commission Regulation(c).

(2) An inspector who has reasonable cause to suspect that a person intends to export any animal, semen, ovum or embryo in contravention of this article may by notice served on that person, that person’s representative or the person appearing to be in charge of the animal, semen, ovum or embryo—

(a) prohibit that export; and

(b) require the person on whom the notice is served—

(i) to take the animal, semen, ovum or embryo to such places as may be specified in the notice; and

(ii) to take such further action in relation to it as may be specified in the notice.

(3) If a notice served under paragraph (2) is not complied with, an inspector may seize any animal or thing to which it relates.

(a) S.S.I. 2012/177.

(b) S.S.I. 2008/11 as amended by S.S.I. 2008/234, S.S.I. 2008/327 and S.S.I. 2012/184.

(c) OJ L 283, 27.10.2007, p.37, as last amended by Commission Implementing Regulation (EU) No 456/2012 (OJ L 141, 31.5.2012, p.7).

(4) It is an offence against the Animal Health Act 1981 for a person to fail to comply with paragraph (1), or a notice served under paragraph (2).”.

RICHARD LOCHHEAD
A member of the Scottish Executive

St Andrew's House,
Edinburgh
20th June 2012

EXPLANATORY NOTE

(This note is not part of the Order)

This Order corrects errors in the Trade in Animals and Related Products (Scotland) Regulations 2012.

Article 2(2) clarifies that disposal of products under regulation 23(3)(b) must be carried out in accordance with Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (known as the animal by-products Regulation).

Article 2(3)(a), (b) and (c)(i) makes breach of regulation 6(6) an offence out with the “reasonable excuse” defence in regulation 33.

Article 2(3)(c)(ii) corrects an error in a cross-reference in the table in regulation 33.

Article 2(3)(c)(iii) and (4) makes an adjustment to the description of paragraph 5(2) of Schedule 2.

Article 3 amends the Bluetongue (Scotland) Order 2008. New article 18A prohibits the export to a third country any animal, semen, ovum or embryo that does not comply with 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 animals of susceptible species in relation to bluetongue. Article 18A(4) declares that contravention of this prohibition is an offence against the Animal Health Act 1981, as is failure to comply with a notice served by an inspector under new article 18A(2).

A business and regulatory impact assessment has not been produced for this instrument as no new impact on the private, voluntary or public sectors is foreseen.

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£4.00

S5586 06/2012 325586T 19585

ISBN 978-0-11-101758-6



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