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SCOTTISH STATUTORY INSTRUMENTS

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**2014 No. 71**

**ANIMALS**

**ANIMAL HEALTH**

**The Tuberculosis (Scotland) Amendment Order 2014**

<i>Made</i>	- - - -	<i>5th March 2014</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>7th March 2014</i>
<i>Coming into force</i>	- -	<i>6th April 2014</i>

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 1, 8(1), 15(4), 25 and 83(2) of the Animal Health Act 1981<sup>(1)</sup>, and all other powers enabling them to do so.

**Citation and commencement**

1. This Order may be cited as the Tuberculosis (Scotland) Amendment Order 2014 and comes into force on 6th April 2014.

**Amendments to the Tuberculosis (Scotland) Order 2007**

2.—(1) The Tuberculosis (Scotland) Order 2007<sup>(2)</sup> is amended as follows.

(2) In article 2 (interpretation), after the definition of “approved disinfectant” insert—

““approved veterinary surgeon” means a veterinary surgeon who is approved in accordance with article 2A;”.

(3) After article 2 insert—

**“Approval of veterinary surgeons**

2A.—(1) The Scottish Ministers may approve any veterinary surgeon whom they consider competent to apply and read diagnostic tests for tuberculosis.

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(1) 1981 c.22. The functions of the Secretary of State in so far as within devolved competence were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46). See section 86 of the Animal Health Act 1981 for the exercise of functions in relation to tuberculosis. The requirement to obtain Treasury consent in section 32(3) of the Animal Health Act 1981 was removed by section 55 of the Scotland Act 1998.

(2) S.S.I. 2007/147 as amended by S.S.I. 2009/445 and S.S.I. 2013/173.

(2) For the purpose of deciding whether to grant an approval under this article, the Scottish Ministers may require a veterinary surgeon to complete such training as they consider necessary.

(3) The Scottish Ministers may by notice given to the veterinary surgeon revoke an approval granted under this article, giving reasons for the revocation.”.

(4) In article 6 (veterinary inquiry)—

(a) in paragraph (2), for “A veterinary inspector who has examined a bovine animal and is of the opinion that it”, substitute “A veterinary inspector who is of the opinion that a bovine animal”; and

(b) for paragraph (3) substitute—

“(3) A notice served under this article shall remain in force until the notice is withdrawn by a further notice served by a veterinary inspector.”.

(5) In article 8(3)(b) (pre movement testing), for “a veterinary inspector” substitute “an approved veterinary surgeon”.

(6) In article 10(1) (application of test), for “a veterinary inspector” substitute “an approved veterinary surgeon”.

(7) For article 11 (restriction on movement after application of test) substitute—

**“Restriction on movement after application of test**

**11.** Unless under the authority of a licence issued by a veterinary inspector, no person shall move a bovine animal from the premises on which it is kept where—

- (a) a diagnostic test for tuberculosis has been applied; and
- (b) the results of the test have not yet been read.

**Restriction on movement etc. on positive or inconclusive test results**

**11A.—**(1) Paragraph (2) applies where—

- (a) a diagnostic test for tuberculosis has been applied to a bovine animal;
- (b) the results of that test have been read by an inspector or an approved veterinary surgeon;
- (c) the inspector or, as the case may be, approved veterinary surgeon is satisfied that the test results reveal that the bovine animal is either a reactor, or an inconclusive reactor; and
- (d) the keeper is informed of the test results by a person who has received consent to test under article 26(a).

(2) Where this paragraph applies the keeper must ensure that—

- (a) the movement of bovine animals is restricted to the extent that no such animal may be moved on or off the premises on which it is kept at the point when this paragraph applies, except under the authority of a licence issued by a veterinary inspector;
- (b) every reactor and inconclusive reactor is isolated from other animals on the premises;
- (c) no milk from a reactor is placed in a bulk milk tank; and
- (d) where the reactor is kept on premises with a dairy herd of bovine animals, any commercial buyer of the milk from the herd in which the reactor was found is informed of the loss of tuberculosis-free status of the herd.

- (3) Any restriction or requirement imposed by paragraph (2)(a) or (b) remains in force until a veterinary inspector serves a notice amending or withdrawing that restriction or requirement.
- (4) Any restriction or requirement imposed by paragraph 2(c) or (d) remains in force until a veterinary inspector serves a notice withdrawing that restriction or requirement.
- (5) In this article—
- “inconclusive reactor” means a bovine animal whose test results from a first diagnostic test for tuberculosis are not negative, but whose results are not deemed to be positive; and
- “loss of tuberculosis-free status” means the herd no longer satisfies the conditions laid down in Annex A, Section I, paragraphs 1 and 2 of Council [Directive 64/432/EEC](#) on animal health problems affecting intra-Community trade in bovine animals and swine(3).”
- (8) In article 20(2)(b) (notices, licences etc), for “a veterinary” substitute “an”.
- (9) In article 21 (facilitating examination etc)—
- (a) after “an inspector” insert “or an approved veterinary surgeon”;
- (b) in sub-paragraph (a), after “veterinary inspector” insert “or an approved veterinary surgeon”; and
- (c) after “the inspector” insert “or, as the case may be, the approved veterinary surgeon”.
- (10) In article 22(1) (default), after “an inspector” where it first occurs insert “or an approved veterinary surgeon”.
- (11) In article 23 (marking of bovine animals)—
- (a) in paragraph (1)—
- (i) after “a veterinary inspector” insert “or an approved veterinary surgeon”; and
- (ii) after “the veterinary inspector” insert “or, as the case may be, the approved veterinary surgeon”; and
- (b) in paragraph (2), after “veterinary inspector” insert “or, as the case may be, approved veterinary surgeon”.

St Andrew’s House,  
Edinburgh  
5th March 2014

*RICHARD LOCHHEAD*  
A member of the Scottish Government

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(3) OJ No L 121 29.7.1964, p.64, as last amended by Council Directive 2013/20/EU of 13 May 2013.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order amends the Tuberculosis (Scotland) Order 2007 (“the 2007 Order”).

The amendments provide for the examination of bovine animals by approved veterinary surgeons in order to verify the existence of tuberculosis.

Article 2(2) introduces a definition of an approved veterinary surgeon.

Article 2(3) inserts article 2A which enables the Scottish Ministers to approve veterinary surgeons to carry out diagnostic tests for tuberculosis under the 2007 Order.

Article 2(4) amends article 6(2) so that a veterinary inspector need not be required to examine a bovine animal in order to arrive at the opinion that it is an affected animal or a suspected animal. It also amends article 6(3) so that a notice remains in force until withdrawn by a further notice by a veterinary inspector.

Article 2(5) amends article 8(3)(b) to provide that an approved veterinary surgeon may read diagnostic tests for tuberculosis applied under article 8(3)(a).

Article 2(6) amends article 10(1) to enable an approved veterinary surgeon to apply diagnostic tests for tuberculosis to bovine animals, in place of a veterinary inspector.

Article 2(7) substitutes a new article 11. The new provision removes the restriction (subject always to article 26 of the 2007 Order) on those who apply diagnostic tests for tuberculosis. It also provides that the restriction on movement of bovine animals who have been tested only applies until the diagnostic test is read. Article 2(7) also inserts a new article 11A. This provides that automatic restrictions and requirements apply following a tuberculosis test conducted by either an inspector or an approved veterinary surgeon where the diagnostic test for tuberculosis identifies either a reactor or an inconclusive reactor. The provisions restricting movement of bovine animals and requiring the isolation of reactors and inconclusive reactors remain in force until a veterinary inspector serves a notice amending or withdrawing those restrictions and requirements.

Article 2(8) amends article 20 to enable inspectors to require names, addresses, production of a licence and the taking of a copy of a licence.

Article 2(9) amends article 21 to enable approved veterinary surgeons to require keepers to comply with their reasonable requirements, for the purposes of examining bovine animals.

Article 2(10) amends article 22 to include failure to comply with the reasonable requirements of an approved veterinary surgeon.

Article 2(11) amends article 23 to provide that an approved veterinary surgeon may mark bovine animals kept on any premises.

No business and regulatory impact assessment has been prepared for this Order as no impact upon business, charities or voluntary bodies is foreseen.