
SCOTTISH STATUTORY INSTRUMENTS

2023 No. 93

The Tuberculosis (Scotland) Order 2023

PART 6

Administration and enforcement

Notices, licences etc.

- 29.**—(1) Any notice, licence, consent or approval issued or given under this Order—
- (a) must be in writing,
 - (b) may be made subject to conditions, and
 - (c) may be amended, suspended or revoked in writing at any time.
- (2) Where a bovine animal is moved under the authority of a licence issued under this Order—
- (a) the animal must be accompanied throughout such movement by the licence, and
 - (b) the person in charge of the animal being moved must, on demand made under this Order by an inspector—
 - (i) provide that person’s name and address,
 - (ii) produce the licence, and
 - (iii) allow a copy of the licence to be taken.

Tuberculosis testing and facilitating examinations etc.

- 30.**—(1) The Scottish Ministers may serve on the keeper of any bovine animal a notice (“a test notice”) requiring the keeper to have applied to the animal a diagnostic test for tuberculosis before a date specified in the notice.
- (2) The keeper of any bovine animal must comply with all reasonable requirements of an inspector or an approved veterinary surgeon with a view to facilitating—
- (a) the examination of that animal by a veterinary inspector or approved veterinary surgeon,
 - (b) the application to the animal of a diagnostic test for tuberculosis (following the service of a notice under paragraph (1)), and
 - (c) the valuation or slaughter of the animal when the Scottish Ministers intend to cause it to be slaughtered under section 32 of the Act in its application to tuberculosis.
- (3) For the purposes of facilitating any examination, testing, valuation or slaughter as mentioned in paragraph (2), an inspector or approved veterinary surgeon may require the keeper of the bovine animal to arrange—
- (a) the collection, penning and securing of the animal, and
 - (b) the movement of the animal to and from any premises specified by the inspector or approved veterinary surgeon.

Default

31.—(1) If any person fails to comply with a test notice under article 30(1) or any requirement as mentioned in article 30(2) or (3), the Scottish Ministers—

- (a) may take or cause to be taken all such steps as may be necessary to facilitate the examination, testing, valuation or slaughter of the bovine animal including, subject to paragraph (3), the movement of the animal to other premises, and
- (b) may by notice served on the keeper of the bovine animal prohibit the movement of any bovine animal onto or off the premises, except under the authority of a licence issued by an inspector.

(2) Paragraph (1) is without prejudice to any proceedings for an offence arising out of any failure to comply as mentioned in that paragraph.

(3) Where a bovine animal is moved to other premises in accordance with sub-paragraph (1)(a), the Scottish Ministers must ensure the return of the animal to the premises from which it was moved within a reasonable time after the examination, testing or valuation is carried out.

(4) Any expenses reasonably incurred by the Scottish Ministers for the purposes of making good any default are recoverable from the person in default.

Marking of bovine animals

32.—(1) If so required in writing by a veterinary inspector or approved veterinary surgeon, the keeper of bovine animals kept on any premises must mark such animals in the manner required by the veterinary inspector or approved veterinary surgeon.

(2) That veterinary inspector or approved veterinary surgeon may paint, stamp, clip, tag or otherwise mark bovine animals kept on any premises.

(3) A person must not without reasonable excuse alter, remove, obliterate or deface any mark or identification applied in accordance with paragraphs (1) and (2).

Prohibition on movement of bovine animals

33. A veterinary inspector may by notice in writing served on the keeper of bovine animals kept on such premises as are specified in the notice, prohibit the movement of bovine animals onto or off such premises or any part of such premises, except under the authority of a licence issued by an inspector.

Prohibition on removal of manure, slurry etc.

34. Where a notice is served under the provisions of article 33, no manure, slurry or other animal waste may be removed from such premises except under the authority of a licence issued by an inspector.

Prohibition on testing, vaccination and therapeutic treatment

35. A person must not—

- (a) apply a diagnostic test for tuberculosis to a bovine animal,
- (b) take samples from a bovine animal for the purpose of applying a diagnostic test for tuberculosis,
- (c) vaccinate a bovine animal against tuberculosis, or
- (d) treat a bovine animal for tuberculosis,

without the consent of the Scottish Ministers.

Identification of *M. bovis* in a laboratory

36.—(1) Subject to paragraph (2), where the presence of the organism *M. bovis* is identified by a laboratory examination of a sample taken from any kind of mammal except man or from the carcase, products or surroundings of any such mammal, the person in charge of that laboratory must immediately notify a laboratory approved by the Scottish Ministers to carry out further investigations.

(2) The duty to notify set out in paragraph (1) does not apply where *M. bovis* is present in the sample as a result of its deliberate introduction as part of research involving the use of that organism.

Enforcement by local authority

37.—(1) Subject to paragraph (2), this Order is enforced by the local authority.

(2) The Scottish Ministers may direct in any particular case or class of case that they will enforce the Order instead.

Offences by bodies corporate

38.—(1) Where a body corporate is guilty of an offence under the Act by virtue of this Order and that offence is shown 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 officer of the body corporate, or
- (b) any person purporting to act in any such capacity,

that person as well as the body corporate is guilty of an offence and liable to be proceeded against and punished accordingly.

(2) If the affairs of a body corporate are managed by its members, the provisions of paragraph (1) apply in relation to the acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body corporate.

(3) For the purposes of paragraph (1), "director" in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate and "body corporate" includes a partnership in Scotland, and, in relation to such a partnership, a reference to a director or other officer of a body corporate is a reference to a partner.

Revocations

39. The instruments specified in the first column of the Schedule are revoked to the extent specified in the corresponding entry in the third column.

Consequential amendments

40.—(1) The Bovine Semen (Scotland) Regulations 2007(1) are amended as follows.

(2) In paragraph 2(5)(a) of schedule 2 (duties of the centre veterinarian in licensed quarantine centres), for "Tuberculosis (Scotland) Order 2007" substitute "Tuberculosis (Scotland) Order 2023(2)".

(3) In paragraph 1(7)(a) of Part 2 (routine tests and treatment which must be applied to all bovine animals in licensed collection centres) of schedule 3 (duties of the centre veterinarian in licensed collection centres), for "Tuberculosis (Scotland) Order 2007" substitute "Tuberculosis (Scotland) Order 2023".

(1) [S.S.I. 2007/330](#); relevant amending instrument is [S.S.I. 2019/71](#).

(2) [S.S.I. 2023/93](#).

(4) In paragraph 1(2)(a) of Part 2 (routine tests and treatment which must be applied to all bovine animals in domestic collection centres) of schedule 5 (duties of the centre veterinarian in domestic collection centres), for “Tuberculosis (Scotland) Order 2007” substitute “Tuberculosis (Scotland) Order 2023”.

(5) In Part 2 (bovine animals that may move to a domestic collection centre or to unlicensed premises) of schedule 8 (movement of bovine animals for semen collection)—

- (a) in paragraph 1(2)(c)(i), for “Tuberculosis (Scotland) Order 2007” substitute “Tuberculosis (Scotland) Order 2023”,
- (b) in paragraph 2(2)(a), for “Tuberculosis (Scotland) Order 2007” substitute “Tuberculosis (Scotland) Order 2023”.

Transitional provisions

41.—(1) The requirement in article 9(1), (2), (3), (4) and (7) of this Order that a diagnostic test for tuberculosis is applied to the bovine animal no more than 30 days before the date of its movement does not apply where a diagnostic test for tuberculosis is applied—

- (a) before the coming into force of this Order, and
- (b) less than 60 days before the date of the bovine animal’s movement.

(2) Article 9(9) of this Order does not apply in relation to a diagnostic test for tuberculosis applied before the coming into force of this Order.

(3) Article 23 of this Order does not apply in relation to the compensation payable for a bovine animal (other than a reactor) where notice informing the keeper of the intended slaughter was served before the coming into force of this Order.

(4) Article 25 of this Order does not apply in relation to a breach of a relevant isolation requirement taking place before the coming into force of this Order.