



# Animal Health Act 1981

## 1981 CHAPTER 22

### PART II

#### DISEASE

#### *Outbreak*

#### [<sup>F1</sup> 14A National contingency plan

- (1) The appropriate authority must prepare a document (the national contingency plan) indicating the arrangements the authority intends to put in place for the purpose of dealing with any occurrence of—
  - (a) foot-and-mouth disease;
  - (b) such other disease as the authority by order specifies.
- (2) After preparing a draft of the national contingency plan the appropriate authority—
  - (a) must send a copy of the draft to such persons and organisations as the authority thinks are representative of those having an interest in the arrangements;
  - (b) must consider any representations made to the authority about the draft by such persons and organisations;
  - (c) may amend the draft accordingly.
- (3) After the appropriate authority has proceeded under subsection (2) the authority must—
  - (a) lay the plan before Parliament (unless subsection (9) applies);
  - (b) publish it in such manner as the authority thinks likely to bring it to the attention of persons who may be affected by the arrangements.
- (4) The appropriate authority must from time to time (but not less frequently than at intervals of one year) review the plan and if the authority thinks it appropriate revise the plan.
- (5) Subsections (2) and (3) apply to a revision of the plan as they apply to its preparation.

*Status: Point in time view as at 01/04/2013.*

*Changes to legislation: There are currently no known outstanding effects for the Animal Health Act 1981, Part II. (See end of Document for details)*

- (6) The power to make an order must be exercised by statutory instrument.
- (7) The instrument is subject to annulment in pursuance of a resolution of either House of Parliament (unless subsection (9) applies).
- (8) The appropriate authority is—
  - (a) the Secretary of State in relation to England;
  - (b) the Secretary of State and the National Assembly for Wales acting jointly in relation to Wales (except for the purposes of subsection (1)(b));
  - (c) the National Assembly for Wales in relation to Wales for the purposes of subsection (1)(b).
- (9) This subsection applies to a plan prepared in relation to Wales.
- (10) It is immaterial that anything done for the purposes of subsections (1) to (3) (except the making of an order under subsection (1)(b)) is done before the passing of the Animal Health Act 2002.]

#### Textual Amendments

- F1** S. 14A inserted (E.W.) (24.3.2003) by [Animal Health Act 2002 \(c. 42\), ss. 18, 19\(1\)](#); [S.I. 2002/3044, art. 2\(c\)](#)

#### Modifications etc. (not altering text)

- C1** S. 14A applied (E.) (28.8.2003) by [Avian Influenza and Newcastle Disease \(Contingency Planning\) \(England\) Order 2003 \(S.I. 2003/2036\)](#), arts. 1, 2
- C2** S. 14A applied (W.) (20.10.2005) by [Avian Influenza and Newcastle Disease \(Contingency Planning\) \(Wales\) Order 2005 \(S.I. 2005/2840\)](#), arts. 1(1), 2

### [<sup>F2</sup>14B Duty to consider vaccination

- (1) In relation to any occurrence of foot-and-mouth disease the Secretary of State must consider what is the most appropriate means of preventing the spread of the disease.
- (2) In particular he must consider whether in relation to the occurrence treating animals with serum or vaccine is more appropriate than any other means of preventing the spread of the disease.]

#### Textual Amendments

- F2** S. 14B inserted (E.W.) (14.1.2003) by [2002 c. 42, s. 15](#); [S.I. 2002/3044, art. 2](#)

## 15 Separation and notice.

- (1) Any person having in his possession or under his charge an animal affected with disease shall—
  - (a) as far as practicable keep that animal separate from animals not so affected; and
  - (b) with all practicable speed give notice of the fact of the animal being so affected to a constable of the police force for the police area in which the animal is so affected.

*Status: Point in time view as at 01/04/2013.*

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- (2) Any person who knows or suspects that an animal (whether in captivity or not) is affected with rabies shall give notice of that fact to a constable unless—
  - (a) he believes on reasonable grounds that another person has given notice under this section in respect of that animal, or
  - (b) he is exempted from doing so by an order under section 1 above,and, if the animal is in his possession or under his charge, shall as far as practicable keep the animal separate from other animals.
- (3) The constable to whom notice is given shall forthwith give information of it to such person or authority as the Ministers by order direct.
- (4) The Ministers may make such orders as they think fit for prescribing and regulating the notice to be given to or by any person or authority in case of any particular disease or in case of the illness of an animal, and for supplementing or varying for those purposes any of the provisions of subsections (1) to (3) above.
- (5) Subsections (1) to (4) above do not have effect in relation to poultry, but the Ministers may by order prescribe and regulate—
  - (a) the separation of diseased poultry from poultry not affected with disease; and
  - (b) the notification of disease in, or illness of, poultry.
- (6) The local authority shall pay to a veterinary surgeon or veterinary practitioner, in respect of every notification of disease made by him to the local authority in pursuance of an order under this Act requiring such a notification, such fee not exceeding 12½p as may be prescribed by the order.
- (7) A person is guilty of an offence against this Act who, without lawful authority or excuse, proof of which shall lie on him, fails where required by this Act or by an order of the Minister—
  - (a) to keep an animal separate so far as practicable; or
  - (b) to give notice of disease with all practicable speed.

## 16 Treatment after exposure to infection. **E+W**

- (1) For the purpose of preventing the spread of disease, the Ministers may cause to be treated with serum or vaccine, or with both serum and vaccine, any animal or bird—
  - (a) which has been in contact with a diseased animal or bird, or
  - (b) which appears to the Ministers to be or to have been in any way exposed to the infection of disease; or
  - (c) which is in an infected area.
- (2) The powers conferred by this section shall be construed as extending to the taking of any action—
  - (a) which is requisite for enabling the appropriate treatment to be administered, or
  - (b) which is otherwise required in connection with that treatment,and for the purpose of exercising those powers any [<sup>F3</sup>inspector] may, subject to production of his authority on demand, enter any land or premises <sup>F4</sup> . . .
- <sup>F5</sup>(3) If a justice of the peace is satisfied on sworn information in writing that the first condition is satisfied and that the second or third condition is satisfied he may issue a warrant authorising an inspector to enter any land or premises, if necessary using reasonable force, for the purpose mentioned in subsection (2).

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- ( 4 ) The information must include—
- (a) a statement as to whether any representations have been made by the occupier of the land or premises to an inspector concerning the purpose for which the warrant is sought;
  - (b) a summary of any such representations.
- ( 5 ) The first condition is that there are reasonable grounds for an inspector to enter the land or premises for that purpose.
- ( 6 ) The second condition is that each of the following applies to the occupier of the premises—
- (a) he has been informed of the decision to seek entry to the premises and of the reasons for that decision;
  - (b) he has failed to allow entry to the premises on being requested to do so by an inspector;
  - (c) he has been informed of the decision to apply for the warrant.
- ( 7 ) The third condition is that—
- (a) the premises are unoccupied or the occupier is absent and (in either case) notice of intention to apply for the warrant has been left in a conspicuous place on the premises, or
  - (b) an application for admission to the premises or the giving of notice of intention to apply for the warrant would defeat the object of entering the premises.
- ( 8 ) Subsections (9) to (12) apply to an inspector who enters any land or premises by virtue of subsection (2) or under a warrant issued under subsection (3).
- ( 9 ) The inspector may take with him—
- (a) such other persons as he thinks necessary to give him such assistance as he thinks necessary;
  - (b) such equipment as he thinks necessary.
- ( 10 ) The inspector may require any person on the land or premises who falls within subsection (11) to give him such assistance as he may reasonably require for the purpose mentioned in subsection (2).
- ( 11 ) The following persons fall within this subsection—
- (a) the occupier of the premises;
  - (b) a person appearing to the inspector to have charge of animals on the premises;
  - (c) a person appearing to the inspector to be under the direction or control of a person mentioned in paragraph (a) or (b).
- ( 12 ) If the inspector enters any unoccupied premises he must leave them as effectively secured against entry as he found them.
- ( 13 ) If the inspector enters any premises by virtue of a warrant issued under subsection (3) he must at the time of entry—
- (a) serve a copy of the warrant on the occupier of the premises, or (if the occupier is not on the premises)
  - (b) leave a copy of the warrant in a conspicuous place on the premises.

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- ( 14 ) A warrant issued under subsection (3) remains in force for one month starting with the date of its approval by the justice of the peace, which date shall be clearly visible on the warrant.
- ( 15 ) A warrant issued under subsection (3) must be executed only at a reasonable hour unless the inspector thinks that the case is one of urgency.
- ( 16 ) In relation to any premises to which entry is obtained by virtue of a warrant under this section the Secretary of State must retain for a period of not less than 12 months beginning with the day after entry—
- (a) a copy of the warrant;
  - (b) a copy of any record of the steps taken to effect entry to the premises and the actions taken on the premises by the inspector and any other person entering the premises with him.
- ( 17 ) A person commits an offence if—
- (a) he is required to give assistance under subsection (10), and
  - (b) he fails to give it.]

#### Extent Information

- E1** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

#### Textual Amendments

- F3** Words in s. 16(2) substituted (14.1.2003) by 2002 c. 42, s. 12(1); S.I. 2002/3044, art. 2
- F4** Words in s. 16(2) omitted (14.1.2003) by virtue of 2002 c. 42, s. 12(1); S.I. 2002/3044, art. 2
- F5** S. 16(3)-(17) inserted (14.1.2003) by 2002 c. 42, s. 12(1); S.I. 2002/3044, art. 2

#### Modifications etc. (not altering text)

- C3** S. 16 modified (E.) (23.2.2006) by Foot-and-Mouth Disease (Control of Vaccination) (England) Regulations 2006 (S.I. 2006/183), regs. 1(2), 17
- C4** S. 16 extended (S.) (23.2.2006) by Foot and Mouth Disease (Slaughter and Vaccination) (Scotland) Regulations 2006 (S.S.I. 2006/45), regs. 1(1), 20
- C5** S. 16 applied (with modifications) (S.) (1.7.2006) by Avian Influenza (Slaughter and Vaccination) (Scotland) Regulations 2006 (S.S.I. 2006/337), regs. 1(2), 14
- C6** S. 16 extended (W.) (6.7.2006) by The Avian Influenza (Vaccination) (Wales) Regulations 2006 (S.I. 2006/1761), regs. 1(2), 7
- C7** S. 16(1) excluded (W.) (1.2.2006) by The Foot-and-Mouth Disease (Control of Vaccination) (Wales) Regulations 2006 (S.I. 2006/180), regs. 1(2), 18
- C8** S. 16(1) excluded (S.) (23.2.2006) by Foot and Mouth Disease (Slaughter and Vaccination) (Scotland) Regulations 2006 (S.S.I. 2006/45), regs. 1(1), 20
- C9** S. 16(1) excluded (E.) (23.2.2006) by Foot-and-Mouth Disease (Control of Vaccination) (England) Regulations 2006 (S.I. 2006/183), regs. 1(2), 17
- C10** S. 16(1) excluded (W.) (6.7.2006) by The Avian Influenza (Vaccination) (Wales) Regulations 2006 (S.I. 2006/1761), regs. 1(2), 7
- C11** S. 16(2)-(17) applied (with modifications) (W.) (6.7.2006) by The Avian Influenza (Vaccination) (Wales) Regulations 2006 (S.I. 2006/1761), regs. 1(2), 7
- C12** S. 16(2)-(17) applied (W.) (13.11.2006) by Avian Influenza (Preventive Measures) (Wales) Regulations 2006 (S.I. 2006/2803), regs. 1(1), 10(a)
- C13** S. 16(2)-(17) applied (E.) (13.11.2006) by The Avian Influenza (Preventive Measures) (England) Regulations 2006 (S.I. 2006/2701), regs. 1(2), 10(a)

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- C14** S. 16(2)-(17) applied (E.) (14.11.2006) by [The Avian Influenza \(Vaccination\) \(England\) Regulations 2006 \(S.I. 2006/2703\)](#), regs. 1(2), **8(2)(a)**
- C15** S. 16(2)-(17) applied (W.) (14.11.2006) by [The Avian Influenza \(Vaccination\) \(Wales\) \(No.2\) Regulations 2006 \(S.I. 2006/2932\)](#), regs. 1(2), **8(2)(a)**

## 16 Treatment after exposure to infection. **S**

<sup>F46</sup>(1) . . . . .

[<sup>F47</sup>(1A) For the purpose of preventing the spread of diseases of animals, the Scottish Ministers may, if they think fit, cause to be treated with serum or vaccine, or with both serum and vaccine, any animal or bird.]

[<sup>F47</sup>(1B) The animals which may be treated under subsection (1A) are any kind of mammal (except man).]

[<sup>F47</sup>(1C) In subsection (1A), “disease” is not restricted by its definition in this Act.]

(2) The powers conferred by this section shall be construed as extending to the taking of any action—

- (a) which is requisite for enabling the appropriate treatment to be administered, or
- (b) which is otherwise required in connection with that treatment,

and for the purpose of exercising those powers any [<sup>F48</sup> inspector ] may, subject to production of his authority on demand, enter any [<sup>F49</sup> premises ].

[<sup>F50</sup>(3) In this section—

“inspector” means—

- (a) a person appointed as an inspector for the purposes of this Act by the Scottish Ministers; or
- (b) a person authorised by the Scottish Ministers for those purposes;

“premises” includes—

- (a) any land or building; or
- (b) any other place, in particular—
  - (i) a vehicle or vessel; or
  - (ii) a tent or moveable structure.]

### Extent Information

- E3** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

### Textual Amendments

- F46** S. 16(1) repealed (S.) (6.10.2006) by [Animal Health and Welfare \(Scotland\) Act 2006 \(asp 11\)](#), **ss. 7(1)(a)**, 55(1) (with s. 54); S.S.I. 2006/482, art. 2
- F47** S. 16(1A) - (1C) inserted (S.) (6.10.2006) by [Animal Health and Welfare \(Scotland\) Act 2006 \(asp 11\)](#), **ss. 7(1)(b)**, 55(1) (with s. 54); S.S.I. 2006/482, art. 2
- F48** Words in s. 16(2) substituted (S.) (6.10.2006) by [Animal Health and Welfare \(Scotland\) Act 2006 \(asp 11\)](#), **ss. 7(2)(a)**, 55(1) (with s. 54); S.S.I. 2006/482, art. 2
- F49** Word in s. 16(2) substituted (S.) (6.10.2006) by [Animal Health and Welfare \(Scotland\) Act 2006 \(asp 11\)](#), **ss. 7(2)(b)**, 55(1) (with s. 54); S.S.I. 2006/482, art. 2

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**F50** S. 16(3) added (S.) (6.10.2006) by [Animal Health and Welfare \(Scotland\) Act 2006 \(asp 11\), ss. 7\(3\), 55\(1\)](#) (with s. 54); [S.S.I. 2006/482](#), art. 2

**Modifications etc. (not altering text)**

**C4** S. 16 extended (S.) (23.2.2006) by [Foot and Mouth Disease \(Slaughter and Vaccination\) \(Scotland\) Regulations 2006 \(S.S.I. 2006/45\)](#), regs. 1(1), **20**

**C5** S. 16 applied (with modifications) (S.) (1.7.2006) by [Avian Influenza \(Slaughter and Vaccination\) \(Scotland\) Regulations 2006 \(S.S.I. 2006/337\)](#), regs. 1(2), **14**

**C6** S. 16 extended (W.) (6.7.2006) by [The Avian Influenza \(Vaccination\) \(Wales\) Regulations 2006 \(S.I. 2006/1761\)](#), regs. 1(2), **7**

**C8** S. 16(1) excluded (S.) (23.2.2006) by [Foot and Mouth Disease \(Slaughter and Vaccination\) \(Scotland\) Regulations 2006 \(S.S.I. 2006/45\)](#), regs. 1(1), **20**

**C10** S. 16(1) excluded (W.) (6.7.2006) by [The Avian Influenza \(Vaccination\) \(Wales\) Regulations 2006 \(S.I. 2006/1761\)](#), regs. 1(2), **7**

**C11** S. 16(2)-(17) applied (with modifications) (W.) (6.7.2006) by [The Avian Influenza \(Vaccination\) \(Wales\) Regulations 2006 \(S.I. 2006/1761\)](#), regs. 1(2), **7**

**[<sup>F6</sup> 16A Slaughter of vaccinated animals**

- (1) This section applies to any animal which has been treated with vaccine for the purpose of preventing the spread of foot-and-mouth disease or such other disease as the Secretary of State may by order specify.
- (2) The Secretary of State may cause to be slaughtered any animal to which this section applies.
- (3) The power conferred by this section extends to taking any action—
  - (a) which is required to enable any such animal to be slaughtered, or
  - (b) which is otherwise required in connection with the slaughter.
- (4) For any animal slaughtered under this section the Secretary of State must pay compensation in accordance with subsections (5) and (6).
- (5) In the case of an animal treated with vaccine for the purpose of preventing the spread of foot-and-mouth disease—
  - (a) if the animal was affected with foot-and-mouth disease the compensation is the value of the animal immediately before it became so affected;
  - (b) in any other case the compensation is the value of the animal immediately before it was slaughtered.
- (6) In the case of an animal treated with vaccine for the purpose of preventing the spread of a disease specified by order under subsection (1) the compensation is of such an amount as may be prescribed by order of the Secretary of State.
- (7) In arriving at a value under subsection (5) above no account is to be taken of the fact that the animal had been treated with vaccine as mentioned in that subsection.”
- (8) No order may be made under subsection (1) unless a draft of the order has been laid before Parliament and approved by a resolution of each House.
- (9) A statutory instrument containing an order under subsection (6) is subject to annulment in pursuance of a resolution of either House of Parliament.]

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### Textual Amendments

**F6** S. 16A inserted (E.W.) (14.1.2003) by 2002 c. 42, s. 5; S.I. 2002/3044, art. 2

### Modifications etc. (not altering text)

- C16** S. 16A modified (E.) (23.2.2006) by [Foot-and-Mouth Disease \(Control of Vaccination\) \(England\) Regulations 2006 \(S.I. 2006/183\)](#), regs. 1(2), 17
- C17** S. 16A applied (with modifications) (W.) (6.7.2006) by [The Avian Influenza \(Vaccination\) \(Wales\) Regulations 2006 \(S.I. 2006/1761\)](#), regs. 1(2), 7
- C18** S. 16A applied (W.) (13.11.2006) by [Avian Influenza \(Preventive Measures\) \(Wales\) Regulations 2006 \(S.I. 2006/2803\)](#), regs. 1(1), 10(b)
- C19** S. 16A applied (E.) (13.11.2006) by [The Avian Influenza \(Preventive Measures\) \(England\) Regulations 2006 \(S.I. 2006/2701\)](#), regs. 1(2), 10(b)
- C20** S. 16A applied (W.) (14.11.2006) by [The Avian Influenza \(Vaccination\) \(Wales\) \(No.2\) Regulations 2006 \(S.I. 2006/2932\)](#), regs. 1(2), 8(2)(b)
- C21** S. 16A applied (E.) (14.11.2006) by [The Avian Influenza \(Vaccination\) \(England\) Regulations 2006 \(S.I. 2006/2703\)](#), regs. 1(2), 8(2)(b)

## [<sup>F7</sup>16B Slaughter of treated animals: Scotland

- (1) Subsection (4) applies to any animal or bird which has been treated with serum or vaccine (or both) for the purpose of preventing the spread of—
  - (a) cattle plague;
  - (b) pleuro-pneumonia;
  - (c) foot-and-mouth disease;
  - (d) swine-fever; or
  - (e) diseases of poultry.
- (2) Subsection (4) also applies to any animal or bird which has been treated with serum or vaccine (or both) for the purpose of preventing the spread of such other disease of animals as the Scottish Ministers may by order specify.
- (3) The references in subsections (1) and (2) to any animal which has been treated mean any kind of mammal (except man); and the power conferred by subsection (4) is exercisable accordingly.
- (4) The Scottish Ministers may, for the purpose of securing (or contributing to the securing of) disease-free status, cause to be slaughtered any animal or bird to which this subsection applies.
- (5) The Scottish Ministers must pay compensation, of such amount as they may prescribe by order, in respect of any animals—
  - (a) slaughtered under subsection (4); and
  - (b) of a kind to which the power of slaughter under that subsection would relate if subsection (3) were omitted.
- (6) An order under subsection (5) may make different provision for different cases or classes of case.
- (7) An order under subsection (5) is subject to annulment in pursuance of a resolution of the Scottish Parliament.
- (8) An order made under subsection (2)—



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- (a) is to be laid before the Scottish Parliament; and
  - (b) ceases to have effect at the expiry of a period of 28 days beginning with the date on which it was made unless, before the expiry of that period, the order has been approved by a resolution of the Parliament.
- (9) However, paragraph (b) of subsection (8) does not apply in relation to an order which—
- (a) revokes (wholly or partly) a previous order; and
  - (b) does nothing else, or nothing else except make provision incidental or supplementary to the revocation.
- (10) In reckoning for the purposes of subsection (8)(b) any period of 28 days, no account is to be taken of any period during which the Scottish Parliament is—
- (a) dissolved; or
  - (b) in recess for more than 4 days.
- (11) Subsection (8)(b) is without prejudice to anything previously done by reference to an order made under subsection (2) or to the making of a new order under that subsection.
- (12) An order under subsection (2) must refer to the circumstances in relation to which the order is made.
- (13) In subsection (2), “disease” is not restricted by its definition in this Act.
- (14) In subsection (4), “disease-free status” means recognition in accordance with any rule of the European Community or any other international rule that in a particular area no animals or birds of a particular class are infected by a particular disease or class of disease.]

**Textual Amendments**

**F7** S. 16B inserted (S.) (6.10.2006) by [Animal Health and Welfare \(Scotland\) Act 2006 \(asp 11\)](#), **ss. 2, 55(1)** (with s. 54); S.S.I. 2006/482, art. 2

*Infection*

**17 Powers as to infected places and areas.**

- (1) The Ministers may make such orders as they think fit for prescribing the cases in which places and areas are to be declared to be infected with a disease and the authority, mode, and conditions by, in, and on which declarations in that behalf are to be made, and their effect and consequences, and their duration and discontinuance, and other connected matters.
- (2) Every place or area so declared infected shall be an infected place or area for the purposes of this Act.
- (3) A notice served in pursuance of directions of the Minister or of a local authority by virtue of an order made under this section shall be conclusive evidence to all intents of the existence or past existence or cessation of the disease, or of the error, and of any other matter on which the notice proceeds.
- (4) .....

F8

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### Textual Amendments

**F8** S. 17(4) repealed by [Animal Health and Welfare Act 1984 \(c. 40, SIF 2:8\)](#), s. 4, **Sch. 2**

## 18 Other provisions as to infected places and areas.

- (1) Notwithstanding anything in this Act, where the Minister, on inquiry, and after communication with the local authority, is satisfied that a declaration of a place being an infected place has been made in error—
  - (a) respecting the existence or past existence of disease, or
  - (b) respecting the limits of a place, or
  - (c) respecting any other matter of fact on which the declaration proceeded,
 the Minister may by order cancel the declaration as regards the infected place, or as regards any part of it, as he thinks fit.
- (2) Where, in accordance with the provisions of this Act—
  - (a) a place or an area or a portion of an area is declared free from a disease, or
  - (b) a declaration of a place being an infected place is cancelled as regards the place or as regards any part of it,
 then, from the time specified in that behalf by the Minister, or a local authority, as the case may be, the place, or area or that portion of the area or that part of the place, shall cease to be, or to be in, an infected place or area.
- (3) An order of the Minister—
  - (a) declaring a place to be an infected place or area, or
  - (b) declaring a place or area, or a portion of an area, to be free from disease, or
  - (c) cancelling a declaration,
 shall be conclusive evidence to all intents of the existence or past existence or cessation of the disease, or of the error, and of any other matter on which the order proceeds.

## 19 Destruction of foxes etc. on rabies infection.

- (1) An order under section 17 above prescribing the cases in which areas are to be declared to be infected with rabies may include provision for the destruction in an area declared to be so infected, by persons authorised in accordance with the order, of foxes and such other wild mammals as may be prescribed by the order (not in either case being animals held in captivity).
- (2) An order made by virtue of subsection (1) above may provide for—
  - (a) authorising any person to enter any land (other than a dwellinghouse) for the purpose of carrying out, or of deciding whether to carry out, the destruction there of animals in accordance with the order;
  - (b) authorising the erection of fences or other obstacles to restrict the movement of animals into and out of an area where destruction is carried out;
  - (c) regulating the ownership and disposal of the carcasses of animals destroyed in accordance with the order;
  - (d) prohibiting any person obstructing the destruction of animals in accordance with the order and from interfering with the carcasses of animals destroyed;

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- (e) authorising the use of methods of destruction which would otherwise be unlawful.
- (3) An order made by virtue of subsection (1) shall include provision as to the steps to be taken to inform the occupier of any land where it is proposed that animals should be destroyed, and other persons who may be there, of the proposal and of the methods of destruction to be used.

## **20 Additional provisions under s. 17 on rabies infection.**

- (1) An order under section 17 above prescribing the cases in which areas are to be declared to be infected with rabies may include provision for—
- (a) requiring notice to be given, in such circumstances as may be prescribed by the order, of the death in an area declared to be so infected of such domestic or wild mammals as may be prescribed;
  - (b) regulating the ownership and disposal of the carcasses of animals whose deaths are required to be notified by virtue of paragraph (a) above;
  - (c) requiring and regulating the vaccination, confinement and control in such area of such domestic mammals and mammals held in captivity as may be prescribed by the order;
  - (d) authorising the seizure and detention and the disposal or destruction of any animal in respect of which any provision made by virtue of paragraph (c) above is not complied with;
  - (e) authorising any person to enter any land for the purpose of seizing or destroying any animal in pursuance of the order.
- (2) An order under section 17 prescribing the cases in which areas are to be declared to be infected with rabies may provide—
- (a) for the division of an area into zones (whether defined by reference to distance from the places within the area where diseased animals have been found or otherwise); and
  - (b) for the consequences which may follow a declaration to be different for different zones.

## **21 Destruction of wild life on infection other than rabies.**

- (1) This section—
- (a) applies to any disease other than rabies which is for the time being a disease for the purposes of section 1(a) above; and
  - (b) is without prejudice to any powers conferred by other provisions of this Act on the Minister, the appropriate Minister and the Ministers.
- (2) The Minister, if satisfied in the case of any area—
- (a) that there exists among the wild members of one or more species in the area a disease to which this section applies which has been or is being transmitted from members of that or those species to animals of any kind in the area, and
  - (b) that destruction of wild members of that or those species in that area is necessary in order to eliminate, or substantially reduce the incidence of, that disease in animals of any kind in the area,
- may, subject to the following provisions of this section, by order provide for the destruction of wild members of that or those species in that area.

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- (3) Before making an order under this section the Minister shall consult with the [F<sup>9</sup> appropriate conservation body ] [F<sup>10</sup>for the area to which it will apply], and every order so made shall specify—
- (a) the area to which it applies;
  - (b) the disease to which it applies; and
  - (c) the one or more species to which it relates.

- (4) An order under this section providing for the destruction of wild members of one or more species in any area may provide for authorising the use for that purpose of one or more methods of destruction that would otherwise be unlawful.

The order shall not authorise such use unless the Minister is satisfied that use of the method or methods in question is the most appropriate way of carrying out that destruction, having regard to all relevant considerations and, in particular, the need to avoid causing unnecessary suffering to wild members of the species in question.

- (5) An order under this section may include provision—
- (a) for ensuring that destruction of wild members of any species to which the order relates is properly and effectively carried out, and in particular—
    - (i) for preventing persons from taking into captivity, harbouring, concealing or otherwise protecting wild members of any such species with intent to prevent their destruction, or
    - (ii) in any other way obstructing or interfering with anything which has been, is being or is to be done or used in connection with that destruction.
  - (b) for regulating the ownership and disposal of the carcasses of members of any such species destroyed in the area to which the order relates.
- (6) Before commencing the destruction of wild members of a species on any land within an area to which an order under this section applies the Minister shall take all reasonable steps to inform—
- (a) the occupier of the land, and
  - (b) any other person who may be there,
- of his intention to carry out that destruction and of the methods of destruction to be used.

It shall be the Minister's duty to ensure that destruction is carried out on any such land in as safe a manner as is possible in all the circumstances.

- (7) Where an order under this section is in force, the Minister shall have power to take such measures (including the erection of fences or other obstacles) as he considers appropriate—
- (a) for preventing the movement of living creatures into or out of the area or any part of the area to which the order applies while destruction of wild members of any species to which the order relates is being carried out in the area; and
  - (b) where destruction of wild members of any such species has been or is to be carried out in any part of that area, for preventing the recolonisation of that part by members of that species for as long as he considers necessary to prevent reappearance among them of the disease to which the order applies.

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- (8) As soon as may be after the Minister is satisfied, in the case of any land, that any measures affecting that land which have been taken in connection with an order under this section are no longer necessary, he shall—
- (a) remove from the land anything placed or erected on it; and
  - (b) take such other steps as are reasonably practicable to reinstate the land.
- (9) In this section and section 22 below—
- “animals” includes horses,
- [<sup>F11</sup>[<sup>F12</sup> “appropriate conservation body” means Natural England, [<sup>F13</sup> Scottish Natural Heritage ] or [<sup>F14</sup>the Natural Resources Body for Wales], ]
- “species” means any species of bird or mammal, except man,
- and references to wild members of any species in an area are references to members of the species in the area that are neither domesticated nor held in captivity.
- (10) A statutory instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

- F9** Words in s. 21(3) substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\), s. 107, Sch. 11 para. 68\(2\)](#); S.I. 2006/2541, art. 2 (with Sch.)
- F10** Words in s. 21(3) inserted (1.4.1991) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\), s. 132\(1\)\(a\), Sch. 9 para. 10\(2\)\(a\)](#); S.I. 1991/685, art. 3
- F11** Definition in s. 21(9) inserted (1.4.1991) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\), s. 132\(1\)\(a\), Sch. 9 para. 10\(2\)\(b\)](#); S.I. 1991/685, art. 3
- F12** Words in s. 21(9) substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\), s. 107, Sch. 11 para. 68\(3\)](#); S.I. 2006/2541, art. 2 (with Sch.)
- F13** Words in s. 21(9) substituted (1.4.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\), s. 4, Sch. 2 para. 7\(2\)](#); S.I. 1991/2633, art. 4
- F14** Words in s. 21(9) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\), art. 1\(2\), Sch. 2 para. 180](#) (with Sch. 7)

## 22 Powers of entry etc. for s. 21.

- (1) In relation to any disease to which section 21 above applies the following persons are authorised officers for the purposes of this section—
- (a) an officer of the appropriate Minister,
  - (b) a veterinary inspector, and
  - (c) any person who, not being such an officer or inspector, is authorised by the appropriate Minister to exercise the powers conferred by this section,
- and subsection (9) of section 21 applies to this section.
- (2) Where an authorised officer has reasonable grounds for suspecting, in the case of any area, that there exists among the wild members of any species in the area a disease to which section 21 applies, he may enter any land in the area and—
- (a) take samples of the wild members of that species, or of their excreta, or of any materials (whether or not forming part of the land) with which wild members of that species may have been in contact;
  - (b) carry out any other investigations which he considers necessary for the purpose of determining, as regards that species and that disease, whether an

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order under section 21 should be made in respect of the whole or part of the area in question.

- (3) An authorised officer may at any time enter any land in the area to which an order under section 21 applies for any of the following purposes—
- (a) to carry out the destruction of any wild members of a species to which the order relates that may be on that land;
  - (b) to take any such measures as are mentioned in subsection (7) of that section;
  - (c) to ascertain, as regards any wild members of a species to which the order relates, whether destruction has been effectively carried out.
- (4) Where in pursuance of an order under section 21 destruction of wild members of any species to which the order relates has been carried out on any land in the area to which the order applies, then, for the purpose of ascertaining—
- (a) whether the land has been or is being recolonised by wild members of that species, and, if so,
  - (b) whether there exists among them the disease to which the order applies (or, if the order has been revoked, to which it previously applied),
- an authorised officer may enter the land and take such samples of or relating to that species as are mentioned in paragraph (a) of subsection (2) above; but the powers conferred by this subsection shall not be exercisable at any time more than 2 years after the revocation of the order in question.
- (5) <sup>F15</sup>Nothing in this section authorises any person to enter a dwellinghouse.]
- (6) A person entering any land in the exercise of powers conferred on him by this section shall, if so required by the owner or occupier or person in charge of the land—
- (a) produce to him some duly authenticated document showing his authority; and
  - (b) state in writing his reasons for entering.
- (7) Without prejudice to subsection (6) above, an authorised officer—
- (a) shall not demand admission as of right to any land forming part of a nature reserve (within the meaning of section 15 of the National Parks and Access to the <sup>M1</sup>Countryside Act 1949) maintained or managed by <sup>F16</sup> the appropriate conservation body [unless 7 days' notice of the intended entry has been given to <sup>F17</sup> the body ]; and
  - (b) in exercising any of his powers under subsection (2), (3) or (4) above on any such land shall, as far as possible, do so in accordance with such reasonable requirements for minimising damage to flora, fauna or geological or physiographical features within the reserve as may have been notified by <sup>F17</sup> the body ] to the appropriate Minister.
- (8) The preceding provisions of this section are without prejudice to any powers conferred on inspectors or others by or by virtue of any other provision of this Act.

#### Textual Amendments

**F15** S. 22(5) repealed (S.) (6.10.2006) by Animal Health and Welfare (Scotland) Act 2006 (asp 11), s. 55(1), **Sch. 2 para. 2(1)** (with s. 54); S.S.I. 2006/482, art. 2

**F16** Words in s. 22(7)(a) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), s. 107, **Sch. 11 para. 69(a)**; S.I. 2006/2541, art. 2 (with Sch.)

**F17** Words in s. 22(7) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), s. 107, **Sch. 11 para. 69(b)**; S.I. 2006/2541, art. 2 (with Sch.)

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#### **Marginal Citations**

**M1** 1949 c. 97.

### **23 Orders as to infected places and areas.**

The Ministers may make such orders as they think fit for all or any of the following purposes—

- (a) for prescribing and regulating the publication by placards, handbills, or otherwise, in the immediate neighbourhood of a place or area declared infected, of the fact of such declaration;
- (b) for prohibiting or regulating the movement of animals and persons into, within, or out of an infected place or area;
- (c) for prescribing and regulating the isolation or separation of animals being in an infected place or area;
- (d) for prohibiting or regulating the removal of carcases, fodder, litter, utensils, pens, hurdles, dung, or other things into, within, or out of an infected place or area;
- (e) for prescribing and regulating the destruction, burial, disposal, or treatment of carcases, fodder, litter, utensils, pens, hurdles, dung, or other things, being in or removed from an infected place or area;
- (f) for prescribing and regulating the cleansing and disinfection of infected places and areas, or parts of them;
- (g) for prescribing and regulating the disinfection of the clothes of persons being in an infected place, and the use of precautions against the spreading of disease by such persons.

### **24 Rabies: quarantine and virus control.**

The provision which may be made by orders under section 1 above shall (without prejudice to the generality of that provision) include provision—

- (a) for requiring mammals which may be carriers of rabies to be kept in quarantine in such cases, for such periods and under such conditions as may be prescribed by the order;
- (b) for prohibiting or regulating—
  - (i) the keeping and importation of rabies virus in any form; and
  - (ii) the deliberate introduction of the virus into animals.

### **25 Movement of diseased or suspected animals.**

The Ministers may make such orders as they think fit for all or any of the following purposes—

- (a) for prohibiting or regulating the exposure of diseased or suspected animals in markets or fairs or sale-yards, or other public or private places, where animals are commonly exposed for sale, and their placing in lairs or other places adjacent to or connected with markets or fairs, or where animals are commonly placed before exposure for sale;
- (b) for prohibiting or regulating the sending or carrying of diseased or suspected animals, or of dung or other thing likely to spread disease, or causing them to be sent or carried, on railways, canals, rivers, or inland navigations, or

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in coasting vessels, or in an aircraft engaged in a flight or a part of a flight beginning and ending in Great Britain, or otherwise;

- (c) for prohibiting or regulating the carrying, leading, or driving of diseased or suspected animals, or causing them to be carried, led or driven, on highways or thoroughfares, or elsewhere;
- (d) for prohibiting or regulating the placing or keeping of diseased or suspected animals on commons or unenclosed lands, or in fields or other places insufficiently fenced, or on the sides of highways.

## **26 Pleuro-pneumonia or foot-and-mouth disease found in transit.**

- (1) The Minister shall by orders make such provision as he thinks necessary or expedient respecting the case of animals found to be affected with pleuro-pneumonia or foot-and-mouth disease—
  - (a) while exposed for sale or exhibited in a market, fair, sale-yard, place of exhibition, or other place; or
  - (b) while placed in a lair or other place before exposure for sale; or
  - (c) while in transit or in course of being moved by land, water or air; or
  - (d) while being in a slaughter-house or place where animals are slaughtered or are kept with a view to slaughter; or
  - (e) while being on common or unenclosed land; or
  - (f) generally, while being in a place not in the possession or occupation or under the control of the owner of the animals.
- (2) The Minister shall by orders under this section make such provision as he thinks fit for the consequences under this Act of animals being so found in the circumstances mentioned above—
  - (a) as well with regard to the animals as with regard to the places where they are when so found, and other places; and
  - (b) with regard to animals being or having been in the same shed or stable, herd or flock as, or in contact with, animals so found.
- (3) The Minister may, by orders under this section relating to particular places, make such provision as he thinks fit for the consequences mentioned above.
- (4) Every order under this section shall have full effect notwithstanding—
  - (a) any provision of this Act requiring the declaration of a place infected with pleuro-pneumonia or foot-and-mouth disease, or relating to any consequence of such a declaration, or to any matter connected with such a declaration; and
  - (b) any other provision whatsoever of this Act.

## **27 Exclusion of strangers.**

- (1) A person owning or having charge of any animals<sup>[F18]</sup>, birds or amphibians ] in a place or area declared infected with any disease may affix, at or near the entrance to a building or enclosure in which the animals<sup>[F18]</sup>, birds or amphibians ] are, a notice forbidding persons to enter the building or enclosure without the permission mentioned in the notice.
- (2) Thereupon it shall not be lawful for any person, not having by law a right of entry or way into, on, or over that building or enclosure, to enter or go into, on, or over the building or enclosure without that permission.



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[<sup>F19</sup>(3) In this section—

“animals” means any kind of mammal (except man);

“disease” is not restricted by its definition in this Act.]

#### Textual Amendments

**F18** Words in s. 27(1) inserted (S.) (6.10.2006) by [Animal Health and Welfare \(Scotland\) Act 2006 \(asp 11\)](#), s. 55(1), [Sch. 2 para. 2\(2\)\(a\)](#) (with s. 54); S.S.I. 2006/482, art. 2

**F19** S. 27(3) added (S.) (6.10.2006) by [Animal Health and Welfare \(Scotland\) Act 2006 \(asp 11\)](#), s. 55(1), [Sch. 2 para. 2\(2\)\(b\)](#) (with s. 54); S.S.I. 2006/482, art. 2

## 28 Seizure of diseased or suspected animals.

The Ministers may make such orders as they think fit—

- (a) for prescribing and regulating the seizure, detention and disposal of a diseased or suspected animal exposed, carried, kept or otherwise dealt with in contravention of an order of the Minister; and
- (b) for prescribing and regulating the liability of the owner or consignor or consignee of such animal to the expenses connected with its seizure, detention and disposal.

### [<sup>F20</sup>28A Deliberate infection

- (1) A person commits an offence if without lawful authority or excuse (proof of which shall lie on him) he knowingly does anything which causes or is intended to cause an animal to be infected with a disease specified in Schedule 2A.
- (2) A person guilty of an offence under subsection (1) is liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.
- (3) The Secretary of State may by order amend Schedule 2A.
- (4) A statutory instrument containing an order under subsection (3) is subject to annulment in pursuance of a resolution of either House of Parliament.]

#### Textual Amendments

**F20** Ss. 28A, 28B inserted (E.W.) (14.1.2003) by [2002 c. 42, s. 12\(1\)](#); S.I. 2002/3044, art. 2

### <sup>F21</sup>28B Deliberate infection: disqualification

- (1) If a person is convicted of an offence under section 28A the court may by order disqualify him, for such period as it thinks fit, from keeping or dealing in—
  - (a) any animals, or
  - (b) any animals of a specified kind.
- (2) The court may suspend the operation of the order—

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- (a) for such period as it thinks necessary to enable arrangements to be made for the keeping of any animals to which the disqualification relates;
  - (b) pending an appeal.
- (3) A person who is disqualified under subsection (1) may from time to time apply to the court which imposed the disqualification to remove it or vary it.
- (4) On an application under subsection (3) the court may by order—
- (a) refuse the application,
  - (b) remove the disqualification, or
  - (c) vary the disqualification to apply it only to such animals or kind of animals as it specifies.
- (5) In considering an application under subsection (3) the court may have regard to—
- (a) the nature of the offence in respect of which the disqualification was imposed;
  - (b) the character of the applicant;
  - (c) his conduct since the disqualification was imposed.
- (6) The first application under subsection (3) must not be made before the end of the period of one year starting with the date the disqualification starts.
- (7) A further application must not be made before the end of the period of one year starting with the date of the court's last order.
- (8) For the purposes of this section keeping or dealing in an animal includes—
- (a) having custody or control of an animal;
  - (b) being concerned in the management or control of a body (whether or not incorporated) whose activities include keeping or dealing in animals.

#### Textual Amendments

**F21** Ss. 28A, 28B inserted (E.W.) (14.1.2003) by 2002 c. 42, s. 12(1); S.I. 2002/3044, art. 2

#### [<sup>F22</sup>28C Deliberate infection: Scotland

- (1) A person commits an offence if, without lawful authority or excuse (proof of which lies on the person), that person—
- (a) knowingly does anything which causes or is intended to cause; or
  - (b) recklessly causes,
- an animal or bird to be infected with a disease specified in Schedule 2B to this Act.
- (2) A person commits an offence if, without lawful authority or excuse (proof of which lies on the person), that person acquires or retains—
- (a) an animal or bird; or
  - (b) the carcass of an animal or bird,
- which the person knows, or ought reasonably to know, to be infected with a disease specified in Schedule 2B to this Act.
- (3) A person commits an offence if, without lawful authority or excuse (proof of which lies on the person), that person acquires or retains anything obtained from, produced by or used in connection with—

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- (a) an animal or bird; or
  - (b) the carcase of an animal or bird,
- which the person knows, or ought reasonably to know, to be infected with a disease specified in Schedule 2B to this Act.
- (4) A person guilty of an offence under this section is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.
- (5) In this section and sections 28D to 28H, the references to an animal mean any kind of mammal (except man).]

#### Textual Amendments

**F22** Ss. 28C-28H inserted (S.) (6.10.2006) by [Animal Health and Welfare \(Scotland\) Act 2006 \(asp 11\)](#), ss. 10, 55(1) (with s. 54); S.S.I. 2006/482, art. 2

#### [<sup>F22</sup>28D Deliberate infection: deprivation of entitlement to compensation

- (1) Where a person is convicted of an offence under section 28C, any provision of this Act by virtue of which compensation is payable to the person does not apply in respect of anything to which this subsection applies.
- (2) Subsection (1) applies to animals to which that offence relates.
- (3) Subsection (1) also applies to any other animals which were kept on the same premises as the animals referred to in subsection (2)—
- (a) at the same time (or any part of the time) as those animals; and
  - (b) at or after the time when the offence was committed,
- and in relation to which compensation would be payable but for this section.
- (4) Subsection (1) also applies to—
- (a) any carcasses seized under an order made under section 35(1) or 36ZA(1)—
    - (i) which are of the animals referred to in subsection (2) or of the other animals referred to in subsection (3); and
    - (ii) in relation to which compensation would be payable but for this section;
  - (b) other things seized under such an order—
    - (i) which were obtained from or produced by those animals; and
    - (ii) in relation to which compensation would be payable but for this section; and
  - (c) anything else—
    - (i) seized under such an order; and
    - (ii) which was present on the same premises as those animals, or those carcasses or other things, at the time described by paragraphs (a) and (b) of subsection (3),
- and in relation to which compensation would be payable but for this section.

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- (5) Any compensation paid to a person in respect of anything to which subsection (1) applies may be recovered by the Scottish Ministers.
- (6) In subsection (3), “ premises ” includes—
- (a) any land or building; or
  - (b) any other place, in particular—
    - (i) a vehicle or vessel; or
    - (ii) a tent or moveable structure.]

#### **Textual Amendments**

**F22** Ss. 28C-28H inserted (S.) (6.10.2006) by [Animal Health and Welfare \(Scotland\) Act 2006 \(asp 11\)](#), ss. [10](#), [55\(1\)](#) (with s. [54](#)); S.S.I. 2006/482, art. [2](#)

#### **[<sup>F22</sup>28E Deliberate infection: deprivation orders**

- (1) Where a person is convicted of—
  - (a) an offence under section 28C; or
  - (b) an offence under section 28F(16) by reason of owning or keeping an animal, the convicting court may make an order (in this section and section 28H referred to as a “ deprivation order ”) in respect of any animal in relation to which the offence was committed.
- (2) A deprivation order is an order—
  - (a) depriving a person of possession or ownership (or both) of an animal; and
  - (b) for—
    - (i) the destruction;
    - (ii) the sale; or
    - (iii) another disposal,
 of the animal.
- (3) Where the court decides not to make a deprivation order in relation to an offence referred to in subsection (1), it must state its reasons except where it makes a disqualification order in relation to the offence.
- (4) A deprivation order may be made in addition to, or instead of, any other penalty or order which may be imposed in relation to a relevant offence.
- (5) A deprivation order may make provision in respect of any dependent offspring of an animal to which it applies.
- (6) A deprivation order may include—
  - (a) provision—
    - (i) appointing a person who is to secure that the order is carried out;
    - (ii) requiring any person possessing an animal to which the order applies to give it up to a person appointed under sub-paragraph (i);
  - (b) provision authorising—
    - (i) a person appointed under paragraph (a)(i); and
    - (ii) any person acting on that person's behalf,

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- to enter, for the purposes of securing that the order is carried out, any premises where an animal to which the order applies is kept;
- (c) such other provision as the court considers appropriate in connection with the order.
- (7) Provision under subsection (6)(c) may, in particular—
- (a) require reimbursement of any expenses reasonably incurred in carrying out the order;
- (b) relate to the retention of any proceeds of the disposal.
- (8) The court may not make a deprivation order involving the destruction of an animal unless it is satisfied, on evidence provided (orally or in writing) by a veterinary surgeon, that destruction would be in the interests of the animal.
- (9) Before making a deprivation order, the court must give the owner of the animal concerned an opportunity to make representations unless it is not practicable for it to do so.
- (10) A deprivation order is, for the purposes of any appeal under the Criminal Procedure (Scotland) Act 1995 (c. 46), to be treated as a sentence.
- (11) Where a deprivation order is made, any person (apart from a person who may appeal against the order by virtue of subsection (10)) who has an interest in any animal to which the order applies may appeal to the High Court of Justiciary against the order by the same procedure as applies under subsection (10).
- (12) In this section and section 28G, “ premises ” includes—
- (a) any land or building; or
- (b) any other place, in particular—
- (i) a vehicle or vessel; or
- (ii) a tent or moveable structure.
- (13) In this section and section 28G, “ veterinary surgeon ” means a person registered in the register of veterinary surgeons, or the supplementary veterinary register, kept under the Veterinary Surgeons Act 1966 (c. 36). ]

#### Textual Amendments

**F22** Ss. 28C-28H inserted (S.) (6.10.2006) by [Animal Health and Welfare \(Scotland\) Act 2006 \(asp 11\)](#), ss. 10, 55(1) (with s. 54); S.S.I. 2006/482, art. 2

#### [<sup>F22</sup>28F **Deliberate infection: disqualification orders**

- (1) Where a person is convicted of an offence under section 28C or subsection (16), the convicting court may make an order (in section 28E, this section and section 28G referred to as a “ disqualification order ”) disqualifying that person, for such period as it thinks fit, from one or more of the activities specified in subsection (2).
- (2) Those activities are—
- (a) owning or keeping animals (or both);
- (b) dealing in animals;
- (c) transporting animals;

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- (d) working with or using animals;
  - (e) riding or driving animals;
  - (f) providing any service relating to animals (including, in particular, for their care) which involves taking possession of animals;
  - (g) taking possession of animals for the purpose of an activity in respect of which a disqualification mentioned in paragraphs (a) to (f) is imposed;
  - (h) taking charge of animals for any, or any other, purpose.
- (3) For the purposes of subsection (1), disqualification in respect of an activity specified in subsection (2) includes disqualification from any participation in the activity including, in particular—
- (a) making arrangements in connection with the activity;
  - (b) being party to arrangements under which the activity may be controlled or influenced;
  - (c) being concerned (so far as relating to the activity) in the management or control of a body whose business involves the activity.
- (4) However, disqualification by reference to subsection (2)(h) does not include disqualification from taking charge of an animal for so long as is necessary in the circumstances—
- (a) with the consent of the owner or keeper of the animal, for the purpose of caring for it;
  - (b) for the purpose of alleviating any suffering of the animal, if no alternative arrangements for its care are reasonably available.
- (5) Where the court decides not to make a disqualification order in relation to an offence under section 28C or subsection (16), it must state its reasons.
- (6) A disqualification order may be made in addition to, or instead of, any other penalty or order which may be imposed in relation to an offence under that section.
- (7) A disqualification order may apply to animals generally or to animals of any particular kind.
- (8) A disqualification order may specify a period within which an application under subsection (11) may not be made.
- (9) The court may suspend the operation of a disqualification order—
- (a) for such period as it thinks necessary to enable arrangements to be made for the keeping of any animals to which the disqualification applies;
  - (b) pending an appeal.
- (10) A disqualification order is, for the purposes of any appeal under the Criminal Procedure (Scotland) Act 1995, to be treated as a sentence.
- (11) A person who is subject to a disqualification order may apply to the court which imposed the order to terminate or vary it.
- (12) An application under subsection (11) may not be made—
- (a) before the expiry of the period of one year beginning with the date on which the order was made;
  - (b) where there has been a previous application under that subsection in relation to the same order, before the expiry of the period of one year beginning with the date on which the previous application was determined; or

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- (c) within any period specified under subsection (8) or (15).
- (13) On an application under subsection (11), the court may—
- (a) refuse the application;
  - (b) terminate the disqualification order; or
  - (c) vary the disqualification order so as to relax any disqualification imposed by it.
- (14) In considering an application under subsection (11), the court must have particular regard to—
- (a) the nature of the offence in relation to which the disqualification order was made;
  - (b) the character of the applicant;
  - (c) the conduct of the applicant since the order was made.
- (15) Where the court refuses an application made under subsection (11), the court may specify a period within which the applicant may not make a further application under that subsection in relation to that order.
- (16) A person who breaches a disqualification order commits an offence.]

#### Textual Amendments

**F22** Ss. 28C-28H inserted (S.) (6.10.2006) by [Animal Health and Welfare \(Scotland\) Act 2006 \(asp 11\)](#), ss. 10, 55(1) (with s. 54); S.S.I. 2006/482, art. 2

### [<sup>F22</sup>28G Seizure orders where disqualification breached

- (1) Where the court is satisfied that a person who is subject to a disqualification order owns or keeps any animal in breach of the order, the court may make an order (in this section and section 28H referred to as a “ seizure order ”) in respect of all animals which the person owns or keeps in breach of the disqualification order.
- (2) A seizure order may be made—
- (a) on summary application by an inspector;
  - (b) even if proceedings have not been, or are not likely to be, taken against the person for an offence under section 28F(16).
- (3) In subsection (2)(a), “ inspector ” means—
- (a) a person appointed as an inspector for the purposes of this Act by the Scottish Ministers; or
  - (b) a person authorised by the Scottish Ministers for those purposes.
- (4) A seizure order is an order—
- (a) depriving a person of possession or ownership (or both) of an animal; and
  - (b) for—
    - (i) the destruction;
    - (ii) the sale; or
    - (iii) another disposal,of the animal.
- (5) A seizure order may include—

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- (a) provision—
    - (i) appointing a person who is to secure that the order is carried out;
    - (ii) requiring any person possessing an animal to which the order applies to give it up to a person appointed under sub-paragraph (i);
  - (b) provision authorising—
    - (i) a person appointed under paragraph (a)(i); and
    - (ii) any person acting on that person's behalf,
 to enter, for the purposes of securing that the order is carried out, any premises where an animal to which the order applies is kept;
  - (c) such other provision as the court considers appropriate in connection with the order.
- (6) Provision under subsection (5)(c) may, in particular—
- (a) require reimbursement of any expenses reasonably incurred in carrying out the order;
  - (b) relate to the retention of any proceeds of the disposal.
- (7) The court may not make a seizure order which involves the destruction of an animal unless it is satisfied, on evidence provided (orally or in writing) by a veterinary surgeon, that destruction would be in the interests of the animal.
- (8) Before making a seizure order, the court must give the owner of the animals concerned an opportunity to make representations unless it is not practicable for it to do so.
- (9) In determining whether or how to make a seizure order, the court must have regard to the desirability of—
- (a) protecting the value of any animal to which the order applies; and
  - (b) avoiding increasing any expenses which a person may be required to reimburse.
- (10) Where an application is made under subsection (2)(a), the court may make an order under this subsection (an “interim order”) containing such provision as the court considers appropriate in relation to the keeping of an animal until the application is finally determined.
- (11) Subsections (5), (6)(a) and (9) apply in relation to an interim order as they apply in relation to a seizure order.
- (12) The disqualified person by reference to whom a seizure order is made, or any person (apart from that disqualified person) who entered the process prior to the making of the order, may appeal to the Sheriff Principal against the order.]

#### Textual Amendments

**F22** Ss. 28C-28H inserted (S.) (6.10.2006) by [Animal Health and Welfare \(Scotland\) Act 2006 \(asp 11\)](#), ss. [10](#), [55\(1\)](#) (with s. [54](#)); S.S.I. [2006/482](#), art. [2](#)

#### [<sup>F22</sup>28H Suspension of orders pending appeal

- (1) The operation of any deprivation order or seizure order is suspended until—
  - (a) any period for an appeal against the order has expired;



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- (b) the period for an appeal against the conviction on which the order depends has expired; and
  - (c) any appeal against the order or that conviction has been withdrawn or finally determined.
- (2) Where the operation of a deprivation order or seizure order is suspended under subsection (1), or such an order is not executable because decree has not been extracted, the court may make an order under this subsection (an “interim order”) containing such provision as the court considers appropriate in relation to the keeping of an animal for so long as the first-mentioned order remains suspended or inexecutable.
- (3) An interim order may, in particular, make provision of the sort described in—
- (a) paragraphs (a) and (b) of subsection (5) of section 28G;
  - (b) paragraph (a) of subsection (6) of that section.
- (4) In determining whether or how to make an interim order, the court must have regard to the desirability of—
- (a) protecting the value of any animal to which the order applies; and
  - (b) avoiding increasing any expenses which a person may be required to reimburse.]

#### Textual Amendments

**F22** Ss. 28C-28H inserted (S.) (6.10.2006) by [Animal Health and Welfare \(Scotland\) Act 2006 \(asp 11\)](#), ss. 10, 55(1) (with s. 54); S.S.I. 2006/482, art. 2

#### [<sup>F23</sup>28I Specified diseases: Scotland

- (1) Schedule 2B to this Act has effect as to the specification of certain diseases of animals.
- (2) The Scottish Ministers may by order modify Schedule 2B.
- (3) An order made under subsection (2)—
  - (a) is to be laid before the Scottish Parliament; and
  - (b) ceases to have effect at the expiry of a period of 28 days beginning with the date on which it was made unless, before the expiry of that period, the order has been approved by a resolution of the Parliament.
- (4) However, paragraph (b) of subsection (3) does not apply in relation to an order which—
  - (a) revokes (wholly or partly) a previous order; and
  - (b) does nothing else, or nothing else except make provision incidental or supplementary to the revocation.
- (5) In reckoning for the purposes of subsection (3)(b) any period of 28 days, no account is to be taken of any period during which the Scottish Parliament is—
  - (a) dissolved; or
  - (b) in recess for more than 4 days.

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- (6) Subsection (3)(b) is without prejudice to anything previously done by reference to a modification made by an order under subsection (2) or to the making of a new order under that subsection.
- (7) An order under subsection (2) must include a statement of the reasons for making the order.]

#### Textual Amendments

**F23** S. 28I inserted (S.) (6.10.2006) by Animal Health and Welfare (Scotland) Act 2006 (asp 11), ss. 9(1), 55(1) (with s. 54); S.S.I. 2006/482, art. 2

### *Risk to human health*

#### **29 Control of zoonoses.**

- (1) This section shall have effect with a view to reducing the risk to human health from any disease of, or organism carried in, animals; and the Ministers may by order designate any such disease or organism which in their opinion constitutes such a risk as is mentioned in this subsection.

In this section “disease” is not restricted by its definition in this Act.

- (2) Where any disease or organism is for the time being designated under this section, the Ministers may by order—
- (a) provide for any provision of this Act which has effect in relation to the disease so designated subject to such modifications as may be specified in the order;
  - (b) apply any provision of this Act, subject to any modifications so specified, in relation to the presence of the organism in an animal as if the presence of the organism were a disease to which this Act applied.
- (3) The Ministers may by order make provision for requiring a person who, in such circumstances as are specified by the order, knows or has reason to suspect that an animal of such description as is specified in the order is or was—
- (a) affected with a disease designated under this section, or
  - (b) a carrier of an organism so designated,
- to furnish to such person and in such form and within such period as are specified in the order such information relating to the animal as is so specified.

#### **30 Provisions supplemental to s. 29.**

- (1) If it appears to the appropriate Minister that a person may have information relating to—
- (a) an animal affected with a disease designated under section 29 above, or
  - (b) an animal which is a carrier of an organism so designated,
- that Minister may by notice in writing require him to furnish to such person and in such form and within such period as are specified in the notice such information relating to the animal as he possesses and is so specified.

In this section “disease” is not restricted by its definition in this Act.

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- (2) Where a veterinary inspector has reason to believe that an animal such as is mentioned in subsection (1) above is or has been on any land he may, on producing if so required evidence of his authority—
- (a) enter the land and make such tests and take such samples of any animal, feeding stuff, litter, dung, vessel, pen, vehicle or other thing whatsoever which is on or forms part of the land as he thinks appropriate for the purpose of ascertaining whether such an animal is or has been on the land; and
  - (b) require the owner or person having charge of any animals on the land to take such reasonable steps as the inspector may specify for the purpose of collecting or restraining them so as to facilitate the exercise in relation to them of the powers conferred on the inspector by paragraph (a) above.
- (3) A person is guilty of an offence against this Act who—
- (a) fails to comply with a requirement imposed on him by virtue of section 29 and this section; or
  - (b) in purported compliance with a requirement to furnish information which is imposed on him by virtue of section 29 and this section, knowingly or recklessly furnishes information which is false in a material particular.

### *Slaughter*

#### **31 Slaughter in certain diseases.**

Schedule 3 to this Act has effect as to the slaughter of animals in relation to—

- (a) cattle plague;
- (b) pleuro-pneumonia;
- (c) foot-and-mouth disease;
- (d) swine-fever; and
- (e) diseases of poultry.

#### **32 Slaughter in other diseases.**

- (1) The Minister may, if he thinks fit, cause to be slaughtered any animal which—
- (a) is affected or suspected of being affected with any disease to which this section applies; or
  - (b) has been exposed to the infection of any such disease.
- (2) This section applies to such diseases of animals as may from time to time be directed by order of the Ministers.
- (3) The Minister shall pay for animals slaughtered under this section compensation of such amount as may be determined in accordance with scales prescribed by order of the Minister made with the Treasury's approval.

A statutory instrument containing an order under this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.

- (4) This section does not apply to poultry; and in this section—
- (a) “animals” includes horses;
  - (b) “disease” is not restricted by its definition in this Act.

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#### Modifications etc. (not altering text)

- C22** S. 32 applied (1.1.1993) by S.I. 1992/3159, **art. 2(1)** (as amended (S.) (28.6.2014) by The Specified Diseases (Notification and Slaughter) (Amendment) and Compensation (Scotland) Order 2014 (S.S.I. 2014/151), arts. 1(1), **2**  
S. 32 applied (24.1.1997) by S.I. 1996/3183, **art. 10(1)**  
S. 32 applied (1.4.1997) by S.I. 1997/757, **art. 11**  
S. 32 applied (1.4.1997) by S.I. 1997/758, **art. 18**  
S. 32 applied (E.) (1.9.2000) by S.I. 2000/2055, **art. 18**  
S. 32 applied (E.) (1.9.2000) by S.I. 2000/2056, **art. 11**
- C23** S. 32 applied (W.) (19.2.2003) by Bluetongue (Wales) Order 2003 (S.I. 2003/326), arts. 1(1), **13** (with art. 4)
- C24** S. 32 applied (S.) (19.2.2003) by Bluetongue (Scotland) Order 2003 (S.S.I. 2003/91), arts. 1(1), **13**
- C25** S. 32 applied (E.) (19.2.2003) by Bluetongue Order 2003 (S.I. 2003/130), arts. 1(1), **13**
- C26** S. 32 applied (S.) (28.11.2003) by African Swine Fever (Scotland) Order 2003 (S.S.I. 2003/586), arts. 1(1), **2(3)**
- C27** S. 32 applied (S.) (23.9.2005) by Tuberculosis (Scotland) Order 2005 (S.S.I. 2005/434), arts. 1(1), **4**
- C28** S. 32 applied (W.) (31.3.2006) by Enzootic Bovine Leukosis (Wales) Order 2006 (S.I. 2006/867), arts. 1(1), **13**
- C29** S. 32 applied (W.) (31.3.2006) by Brucellosis (Wales) Order 2006 (S.I. 2006/866), arts. 1(1), **18**
- C30** S. 32 applied (E.) (27.4.2006 at 6.00 p.m.) by Avian Influenza and Influenza of Avian Origin in Mammals (England) Order 2006 (S.I. 2006/1197), arts. 1(2), **3(2)** (with art. 3(3))
- C31** S. 32 applied (W.) (6.7.2006) by The Avian Influenza and Influenza of Avian Origin in Mammals (Wales) Order 2006 (S.I. 2006/1762), arts. 1(2), **3(2)** (with art. 3(3))
- C32** S. 32 applied (W.) (13.11.2006) by The Avian Influenza and Influenza of Avian Origin in Mammals (Wales) (No 2) Order 2006 (S.I. 2006/2927), arts. 1(2), **3(2)**
- C33** S. 32 applied (E.) (6.4.2007) by Tuberculosis (England) Order 2007 (S.I. 2007/740), arts. 1(1), **4**
- C34** S. 32 applied (S.) (6.4.2007) by Tuberculosis (Scotland) Order 2007 (S.S.I. 2007/147), arts. 1(1), **3**
- C35** S. 32 applied (W.) (2.11.2007 at 6.00 p.m.) by The Bluetongue (Wales) Order 2007 (S.I. 2007/3150), arts. 1, **15** (with art. 4)
- C36** S. 32 applied (W.) (23.11.2007 at 2.25 p.m.) by The Bluetongue (No. 2) (Wales) Order 2007 (S.I. 2007/3309), arts. 1, **17**
- C37** S. 32 applied (E.) (23.11.2007) by Bluetongue (No.2) Order 2007 (S.I. 2007/3304), arts. 1, **17**
- C38** S. 32 applied (S.) (11.2.2008) by Bluetongue (Scotland) Order 2008 (S.S.I. 2008/11), arts. 1(1), **20**
- C39** S. 32 applied (S.) (25.5.2009) by Swine Vesicular Disease (Scotland) Order 2009 (S.S.I. 2009/173), arts. 1(1), **4** (with art. 3)
- C40** S. 32 applied (S.) (26.6.2009) by Brucellosis (Scotland) Order 2009 (S.S.I. 2009/232), **art. 3** (with art. 27)
- C41** S. 32 applied (W.) (25.5.2010) by The Tuberculosis (Wales) Order 2010 (S.I. 2010/1379), **art. 6(2)**
- C42** S. 32 applied (S.) (24.9.2012) by The Bluetongue (Scotland) Order 2012 (S.S.I. 2012/199), arts. 1(b), **21** (with art. 8)

#### [<sup>F24</sup>32A Slaughter to prevent spread of disease

- (1) The Secretary of State may by order amend Schedule 3 for the purpose of—
- (a) authorising or requiring the slaughter of animals to be caused with a view to preventing the spread of disease other than foot-and-mouth disease;
  - (b) requiring the payment of compensation in respect of animals slaughtered by virtue of the order.
- (2) An order under this section may include—

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- (a) amendments corresponding to those made by section 1 of the Animal Health Act 2002;
  - (b) amendments as to slaughter in relation to any disease not referred to in Schedule 3 (apart from the order);
  - (c) supplementary or incidental provisions (including amendments of provisions other than Schedule 3).
- (3) No order may be made under this section unless a draft of the order has been laid before Parliament and approved by a resolution of each House.]

#### Textual Amendments

**F24** S. 32A inserted (E.W.) (14.1.2003) by 2002 c. 42, s. 2(1); S.I. 2002/3044, art. 2

### [<sup>F25</sup> 32B Disease control (slaughter) protocol

- (1) This section applies to a power exercisable by the Secretary of State under—
- (a) paragraph 3(1)(c) of Schedule 3;
  - (b) such other provision of that Schedule (as amended by an order under section 32A(1)(a)) as the Secretary of State by order specifies;
  - (c) such other provisions of this Act relating to the control of disease as the Secretary of State by order specifies.
- (2) The Secretary of State must prepare a document (the disease control (slaughter) protocol) indicating—
- (a) the purposes for which any power to which this section applies will be exercised;
  - (b) the principal factors to be taken into account in deciding whether to exercise the power;
  - (c) the procedure to be followed in deciding whether in any circumstances or description of circumstances the power is to be exercised, which shall include the application of such methods of detecting disease in animals as may be available;
  - (d) the procedure to be followed by persons who have functions in relation to the exercise of the power;
  - (e) the means by which a particular decision to exercise the power may be reviewed.
- (3) After preparing a draft of the disease control (slaughter) protocol the Secretary of State—
- (a) must send a copy of the draft to such persons and organisations as he thinks are representative of those having an interest in the exercise of the power;
  - (b) must consider any representations made to him about the draft by such persons and organisations;
  - (c) may amend the draft accordingly.
- (4) After the Secretary of State has proceeded under subsection (3) he must publish the protocol in such manner as he thinks appropriate.
- (5) The Secretary of State must from time to time review the protocol and if he thinks it appropriate revise the protocol.

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- (6) Subsections (2) to (4) apply to a revision of the protocol as they apply to its preparation.
- (7) The power to make an order must be exercised by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) It is immaterial that anything done for the purposes of subsections (2) to (4) is done before the passing of the Animal Health Act 2002.]

#### Textual Amendments

**F25** Ss. 32B, 32C inserted (E.W.) (14.1.2003) by [2002 c. 42, s. 3](#); [S.I. 2002/3044, art. 2](#)

#### Modifications etc. (not altering text)

**C43** S. 32B applied (28.8.2003) by [Avian Influenza and Newcastle Disease \(Biosecurity Guidance and Disease Control Slaughter Protocol\) \(England and Wales\) Order 2003 \(S.I. 2003/2035\)](#), arts. 1, 3

### <sup>F26</sup> 32C Protocol: exercise of powers

- (1) A power to which section 32B applies must not be exercised unless the protocol mentioned in that section has been published and has not been withdrawn.
- (2) Any act which is done in contravention of subsection (1) is done without lawful authority.
- (3) If a person who has any function in relation to the exercise of a power to which section 32B applies fails to act in accordance with the protocol he is not by reason only of that failure liable in any civil or criminal proceedings.
- (4) But the protocol is admissible in evidence in such proceedings and a court may take account of any failure to act in accordance with it in deciding any question in the proceedings.

#### Textual Amendments

**F26** Ss. 32B, 32C inserted (E.W.) (14.1.2003) by [2002 c. 42, s. 3](#); [S.I. 2002/3044, art.2](#)

### [<sup>F27</sup> 32D Explanation of preventive slaughter

- (1) This section applies to a power exercisable by the Secretary of State under—
  - (a) paragraph 3(1)(c) of Schedule 3;
  - (b) any other provision of that Schedule as amended by an order under section 32A(1)(a).
- (2) The Secretary of State must not exercise a power to which this section applies unless before he first exercises the power in relation to any description of circumstances he publishes his reasons in relation to the circumstances of that description—
  - (a) for the exercise of the power;
  - (b) for not exercising his power under section 16 to cause animals to be treated with serum or vaccine.
- (3) If the Secretary of State does not comply with subsection (2) in relation to any description of circumstances anything done in connection with the exercise of the

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power in such circumstances must be taken to have been done without lawful authority.]

#### Textual Amendments

**F27** S. 32D inserted (E.W.) (14.1.2003) by 2002 c. 42, s. 4; S.I. 2002/3044, art. 2

### [<sup>F28</sup>32E Slaughter for preventing spread of disease: Scotland

Schedule 3A to this Act has effect as to slaughter in relation to—

- (a) cattle plague;
- (b) pleuro-pneumonia;
- (c) foot-and-mouth disease;
- (d) swine-fever;
- (e) diseases of poultry; and
- (f) such other diseases as are specified under paragraph 6 of that Schedule.]

#### Textual Amendments

**F28** S. 32E inserted (S.) (6.10.2006) by Animal Health and Welfare (Scotland) Act 2006 (asp 11), ss. 1(1), 55(1) (with s. 54); S.S.I. 2006/482, art. 2

### [<sup>F29</sup>32F Disease control (slaughter) statement: Scotland

- (1) Before exercising, in relation to a particular event or state of affairs (regardless of its geographical extent), a power of slaughter conferred by or under—
  - (a) section 16B of this Act; or
  - (b) Schedule 3A to this Act,the Scottish Ministers must make a statement under this subsection.
- (2) The statement—
  - (a) must—
    - (i) describe the event or state of affairs concerned; and
    - (ii) express the reason why there is (in addition to, or as an alternative to, other courses of action) to be resort to exercise of that particular power for the relevant purpose;
  - (b) may include further information, for example—
    - (i) about factors that have been taken into account (including types of advice to which regard has been had);
    - (ii) as to procedures that are to be followed.
- (3) The Scottish Ministers are to—
  - (a) make the statement in such manner; and
  - (b) publicise the statement to such extent, as they consider appropriate.]

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#### Textual Amendments

- F29** S. 32F inserted (S.) (6.10.2006) by [Animal Health and Welfare \(Scotland\) Act 2006 \(asp 11\)](#), **ss. 3**, 55(1) (with s. 54); S.S.I. 2006/482, art. 2

### 33 Additional staff and expenses.

[<sup>F30</sup>(1)] The Minister may, for the purposes of his powers under this Act relating to the slaughter by him of animals,[<sup>F31</sup> birds or amphibians, ] employ such additional inspectors, valuers and other persons, and at such remuneration, and may incur such expenses, as, subject to the approval of [<sup>F32</sup>the Treasury], he thinks necessary.

[<sup>F33</sup>(2) In this section, “animals” means any kind of mammal (except man).]

#### Textual Amendments

- F30** S. 33(1): s. 33 renumbered as s. 33(1) (S.) (6.10.2006) by [Animal Health and Welfare \(Scotland\) Act 2006 \(asp 11\)](#), s. 55(1), **Sch. 2 para. 2(3)(a)** (with s. 54); S.S.I. 2006/482, art. 2
- F31** Words in s. 33(1) inserted (S.) (6.10.2006) by [Animal Health and Welfare \(Scotland\) Act 2006 \(asp 11\)](#), s. 55(1), **Sch. 2 para. 2(3)(b)** (with s. 54); S.S.I. 2006/482, art. 2
- F32** Words substituted by virtue of S.I. 1981/1670, **arts. 2(1)(a)(2)**, 3(5)
- F33** S. 33(2) inserted (S.) (6.10.2006) by [Animal Health and Welfare \(Scotland\) Act 2006 \(asp 11\)](#), s. 55(1), **Sch. 2 para. 2(3)(c)** (with s. 54); S.S.I. 2006/482, art. 2

### 34 Slaughter and compensation generally.

- (1) The Minister may, notwithstanding anything in this Act, reserve for observation and treatment an animal[<sup>F34</sup>, bird or amphibian ] liable to be slaughtered under this Act at his direction but subject to payment of compensation by him as in case of actual slaughter.
- (2) Where an animal[<sup>F34</sup>, bird or amphibian ] has been slaughtered under this Act at the Minister’s direction, the carcase of the animal[<sup>F34</sup>, bird or amphibian ] shall belong to the Minister and shall be buried, or sold, or otherwise disposed of by him, or as he directs, as the condition of the animal[<sup>F34</sup>, bird or amphibian ] or carcase and other circumstances may require or admit.
- (3) If, in any case, the sum received by the Minister on sale of a carcase under this section exceeds the amount paid for compensation to the owner of the animal[<sup>F34</sup>, bird or amphibian ] slaughtered, he shall pay that excess to the owner, after deducting reasonable expenses.
- (4) Where an animal[<sup>F34</sup>, bird or amphibian ] has been slaughtered under this Act at the Minister’s direction, he may use for the burial of the carcase any ground in the possession or occupation of the owner of the animal[<sup>F34</sup>, bird or amphibian ] and suitable in that behalf, or any common or unenclosed land.
- (5) If the owner of an animal[<sup>F34</sup>, bird or amphibian ] slaughtered under this Act at the Minister’s direction has an insurance on the animal[<sup>F34</sup>, bird or amphibian ], the amount of the compensation awarded to him under this Act may be deducted by the insurers from the amount of the money payable under the insurance before they make any payment in respect of it.



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- (6) Notwithstanding anything in this Act, the Minister may, if he thinks fit, withhold, either wholly or partially, compensation or other payment in respect of an animal<sup>[F34]</sup>, bird or amphibian ] slaughtered under this Act at his discretion, where the animal<sup>[F34]</sup>, bird or amphibian ], being an imported animal<sup>[F34]</sup>, bird or amphibian ], was in his judgment diseased at the time of its landing or, before or while being brought from a member State, exposed to the infection of disease.
- (7) The Ministers may make such orders as they think fit for all or any of the following purposes—
- (a) for prescribing the mode of ascertainment of the value of an animal<sup>[F34]</sup>, bird or amphibian ] slaughtered, or liable to be slaughtered, at their direction;
  - (b) for regulating applications for, and the mode of payment of, compensation;
  - (c) for prescribing and regulating the destruction, burial, disposal or treatment of carcasses of animals<sup>[F35]</sup>, birds or amphibians ] slaughtered at their direction,
- and they may by order provide that subsection (6) above shall cease to have effect.

<sup>[F36]</sup>(8) In this section—

“animal” means any kind of mammal (except man);

“disease” is not restricted by its definition in this Act.]

#### Textual Amendments

**F34** Words in s. 34 inserted (S.) (6.10.2006) by [Animal Health and Welfare \(Scotland\) Act 2006 \(asp 11\)](#), s. 55(1), [Sch. 2 para. 2\(4\)\(a\)](#) (with s. 54); S.S.I. 2006/482, art. 2

**F35** Words in s. 34(7)(c) inserted (S.) (6.10.2006) by [Animal Health and Welfare \(Scotland\) Act 2006 \(asp 11\)](#), s. 55(1), [Sch. 2 para. 2\(4\)\(b\)](#) (with s. 54); S.S.I. 2006/482, art. 2

**F36** S. 34(8) added (S.) (6.10.2006) by [Animal Health and Welfare \(Scotland\) Act 2006 \(asp 11\)](#), s. 55(1), [Sch. 2 para. 2\(4\)\(c\)](#) (with s. 54); S.S.I. 2006/482, art. 2

#### *Carcases etc. liable to spread disease*

### 35 Seizure and disposal of carcasses etc. **E+W**

- (1) The Ministers may by order make such provision—
- <sup>[F37]</sup>(a) for the seizure of anything, whether animate or inanimate, by or by means of which it appears to them that any disease to which this subsection applies might be carried or transmitted, and]
  - (b) for the destruction, burial, disposal or treatment of anything seized under the order,
- as they may think expedient for preventing the spread of any <sup>[F38]</sup>such disease].

<sup>[F39]</sup>(1A) Subsection (1) above does not authorise provision for the seizure of any animal; but such an order may provide for the seizure of carcasses and of anything obtained from or produced by an animal.

In this subsection, “animal” includes anything that may, by virtue of an order under section 87 below, be included for any of the purposes of this Act in the definition of animals or of poultry contained in that section, and “carcasses” is to be construed accordingly.]

*Status: Point in time view as at 01/04/2013.*

*Changes to legislation: There are currently no known outstanding effects for the Animal Health Act 1981, Part II. (See end of Document for details)*

- (2) Subsection (1) above applies to the diseases in the case of which powers of slaughter are exercisable under this Act, that is to say—
- (a) to cattle plague, pleuro-pneumonia, foot-and-mouth disease [<sup>F40</sup>, swine-fever and transmissible spongiform encephalopathies], and any disease within the meaning of section 32 above to which that section for the time being applies [<sup>F41</sup>and any disease in respect of which an order under section 32A is in force]; and
  - (b) to any disease as defined in relation to poultry by or under section 88 below.
- (3) The Ministers may make such orders as they think fit—
- (a) for prescribing and regulating the destruction, burial, disposal or treatment of carcasses of animals dying while diseased or suspected;
  - (b) for prescribing and regulating the destruction, burial or disposal of anything seized under subsection (1);
  - (c) for prohibiting or regulating the digging up of carcasses which have been buried.
- (4) A person is guilty of an offence against this Act who, without lawful authority or excuse, proof of which shall lie on him—
- (a) throws or places, or causes or suffers to be thrown or placed, into any river, stream, canal, navigation, or other water, or into the sea within 4.8 kilometres of the shore, the carcase of an animal which has died of disease, or been slaughtered as diseased or suspected; or
  - (b) digs up, or causes to be dug up, a carcase buried under the direction of the Minister or of a local authority or of a receiver of wreck.

#### Extent Information

- E2** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

#### Textual Amendments

- F37** S. 35(1)(a) substituted by [Animal Health and Welfare Act 1984 \(c. 40, SIF 2:8\)](#), **s. 1(1)(a)**
- F38** Words substituted by [Animal Health and Welfare Act 1984 \(c. 40, SIF 2:8\)](#), **s. 1(1)(b)**
- F39** S. 35(1A) inserted by [Animal Health and Welfare Act 1984 \(c. 40, SIF 2:8\)](#), **s. 1(2)**
- F40** Words in s. 35(2)(a) substituted (14.1.2003) by [2002 c. 42, s. 2\(2\)\(a\)](#); S.I. 2002/3044, **art. 2**
- F41** Words in s. 35(2)(a) inserted (14.1.2003) by [2002 c. 42, s. 2\(2\)\(b\)](#); S.I. 2002/3044, **art. 2**

## 35 Seizure and disposal of carcasses etc. **S**

- (1) The Ministers may by order make such provision—
- [<sup>F51</sup>(a) for the seizure of anything, whether animate or inanimate, by or by means of which it appears to them that any disease to which this subsection applies might be carried or transmitted, and]
  - (b) for the destruction, burial, disposal or treatment of anything seized under the order,
- as they may think expedient for preventing the spread of any [<sup>F52</sup>such disease].

*Status: Point in time view as at 01/04/2013.*

*Changes to legislation: There are currently no known outstanding effects for the Animal Health Act 1981, Part II. (See end of Document for details)*

[<sup>F53</sup>(1A) Subsection (1) above does not authorise provision for the seizure of any animal; but such an order may provide for the seizure of carcasses and of anything obtained from or produced by an animal.

In this subsection, “animal” includes anything that may, by virtue of an order under section 87 below, be included for any of the purposes of this Act in the definition of animals or of poultry contained in that section, and “carcasses” is to be construed accordingly.]

- (2) Subsection (1) above applies to the diseases in the case of which powers of slaughter are exercisable under this Act, that is to say—
- (a) to cattle plague, pleuro-pneumonia, foot-and-mouth disease and swine-fever, and any disease within the meaning of section 32 above to which that section for the time being applies ; and
  - (b) to any disease as defined in relation to poultry by or under section 88 below.
- (3) The Ministers may make such orders as they think fit—
- (a) for prescribing and regulating the destruction, burial, disposal or treatment of carcasses of animals dying while diseased or suspected;
  - (b) for prescribing and regulating the destruction, burial or disposal of anything seized under subsection (1);
  - (c) for prohibiting or regulating the digging up of carcasses which have been buried.
- (4) A person is guilty of an offence against this Act who, without lawful authority or excuse, proof of which shall lie on him—
- (a) throws or places, or causes or suffers to be thrown or placed, into any river, stream, canal, navigation, or other water, or into the sea within 4.8 kilometres of the shore, the carcase of an animal which has died of disease, or been slaughtered as diseased or suspected; or
  - (b) digs up, or causes to be dug up, a carcase buried under the direction of the Minister or of a local authority or of a receiver of wreck.

#### Extent Information

**E4** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

#### Textual Amendments

**F51** S. 35(1)(a) substituted by [Animal Health and Welfare Act 1984 \(c. 40, SIF 2:8\)](#), [s. 1\(1\)\(a\)](#)

**F52** Words substituted by [Animal Health and Welfare Act 1984 \(c. 40, SIF 2:8\)](#), [s. 1\(1\)\(b\)](#)

**F53** S. 35(1A) inserted by [Animal Health and Welfare Act 1984 \(c. 40, SIF 2:8\)](#), [s. 1\(2\)](#)

## 36 Compensation for seizure.

- (1) The Minister shall pay compensation—
- (a) for anything seized under an order made by virtue of section 35(1) above for the purpose of preventing the spread of foot-and-mouth disease;
  - (b) for anything seized under such an order for the purpose of preventing the spread of any other disease to which section 35(1) applies, except the carcase

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of [<sup>F42</sup>or anything obtained from or produced by] any animal or bird affected with that disease.

- (2) The Ministers may by order provide for the payment by the Minister of compensation for carcases [<sup>F43</sup>of, or things obtained from or produced by] animals or birds affected with any disease to which section 35(1) applies other than foot-and-mouth disease or fowl pest [<sup>F44</sup>being carcases or things seized under an order made by virtue of section 35(1) above].
- (3) The compensation payable under subsection (1) or subsection (2) above for anything seized shall be its value at the time of seizure.
- (4) Where anything destroyed, buried or disposed of under an order made under paragraph (e) of section 23 above could have been seized under an order made under section 35(1), the Minister shall pay the like compensation (if any) for it as if it had been so seized at the time of the destruction, burial or disposal.
- (5) The Ministers may make such orders as they think fit for all or any of the following purposes—
  - (a) for prescribing how the value of anything seized under section 35(1) is to be ascertained;
  - (b) for regulating applications for, and the mode of payment of, any compensation payable by virtue of this section;
  - (c) for prescribing and regulating the destruction, burial or disposal of anything seized under section 35(1).

#### Textual Amendments

**F42** Words inserted by [Animal Health and Welfare Act 1984 \(c. 40, SIF 2:8\)](#), [s. 1\(3\)\(a\)](#)

**F43** Words substituted by [Animal Health and Welfare Act 1984 \(c. 40, SIF 2:8\)](#), [s. 1\(3\)\(b\)](#)

**F44** Words inserted by [Animal Health and Welfare Act 1984 \(c. 40, SIF 2:8\)](#), [s. 1\(3\)\(b\)](#)

#### [<sup>F45</sup>36ZA] **Seizure of carcases etc.: further provision for Scotland**

- (1) The Scottish Ministers may by order make provision for—
  - (a) the seizure of anything (whether animate or inanimate) which appears to them might be capable of carrying or transmitting any disease to which this subsection applies;
  - (b) the destruction, burial, disposal or treatment of anything seized under the order; and
  - (c) regulating the matters mentioned in paragraphs (a) and (b).
- (2) Subsection (1) does not authorise provision for the seizure of a live animal, bird or amphibian; but an order under that subsection may provide for the seizure of carcases and of anything obtained from or produced by an animal, bird or amphibian.
- (3) Subsection (1) applies to the diseases in the case of which any power of slaughter is exercisable under or by virtue of section 16B, Part 2B or Schedule 3A.
- (4) A person commits an offence if, without lawful authority or excuse (proof of which lies on the person), that person throws or places, or causes or suffers to be thrown or placed, into—
  - (a) any river, stream, canal, navigation or other water; or

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*Changes to legislation: There are currently no known outstanding effects for the Animal Health Act 1981, Part II. (See end of Document for details)*

(b) the sea within 4.8 kilometres of the shore,  
the carcase of, or anything obtained from or produced by, an animal, bird or amphibian which has been slaughtered in the exercise of any power conferred by or under section 16B, Part 2B or Schedule 3A.

(5) In this section, the references to an animal mean any kind of mammal (except man).]

#### Textual Amendments

**F45** S. 36ZA - S. 36ZB inserted (S.) (6.10.2006) by [Animal Health and Welfare \(Scotland\) Act 2006 \(asp 11\)](#), **ss. 8, 55(1)** (with s. 54); S.S.I. 2006/482, art. 2

#### [<sup>F45</sup>36ZB Compensation for seizure

- (1) The Scottish Ministers must pay compensation for anything seized under an order made under section 36ZA(1).
- (2) But subsection (1) does not apply to—
  - (a) carcasses seized; or
  - (b) other things seized which are obtained from or produced by creatures.
- (3) The Scottish Ministers may pay compensation for—
  - (a) carcasses seized under an order made under section 36ZA(1);
  - (b) other things seized under such an order which are obtained from or produced by creatures,  
of such description as the Scottish Ministers may specify by order.
- (4) The compensation payable under subsection (1) or (3) for anything seized shall be its value at the time of seizure.
- (5) Where anything destroyed, buried or disposed of under an order made under paragraph (e) of section 23 could have been seized under an order made under section 36ZA(1), compensation (if any) is payable under subsections (1) or (3) as if the thing had been so seized at the time of destruction, burial or disposal.
- (6) The Scottish Ministers may make such orders as they think fit for—
  - (a) prescribing how the value of anything seized under section 36ZA(1) is to be ascertained;
  - (b) regulating applications for, and the mode of payment of, any compensation payable by virtue of this section.]

#### Textual Amendments

**F45** S. 36ZA - S. 36ZB inserted (S.) (6.10.2006) by [Animal Health and Welfare \(Scotland\) Act 2006 \(asp 11\)](#), **ss. 8, 55(1)** (with s. 54); S.S.I. 2006/482, art. 2

**Status:**

Point in time view as at 01/04/2013.

**Changes to legislation:**

There are currently no known outstanding effects for the Animal Health Act 1981, Part II.