



Animal Health Act 2002

2002 CHAPTER 42

PART 1

SLAUGHTER

1 Foot-and-mouth disease

- (1) In the Animal Health Act 1981 (c. 22) (in this Act referred to as the 1981 Act) paragraph 3 of Schedule 3 (power to cause slaughter of animals because of foot-and-mouth disease) is amended as follows.
- (2) In sub-paragraph (1) omit “and” at the end of paragraph (a), and after paragraph (b) insert—
 - “(c) any animals the Secretary of State thinks should be slaughtered with a view to preventing the spread of foot-and-mouth disease.”
- (3) After sub-paragraph (1) insert—
 - “(1A) The Secretary of State may exercise the power under sub-paragraph (1)(c) whether or not animals—
 - (a) are affected with foot-and-mouth disease or suspected of being so affected;
 - (b) are or have been in contact with animals so affected;
 - (c) have been exposed to the infection of foot-and-mouth disease;
 - (d) have been treated with vaccine against foot-and-mouth disease.”

2 Extension of power to slaughter

- (1) In the 1981 Act the following section is inserted after section 32—

“32A Slaughter to prevent spread of disease

- (1) The Secretary of State may by order amend Schedule 3 for the purpose of—

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- (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—
- (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.”
- (2) In section 35(2) of that Act (diseases to which power of seizure and disposal of carcasses applies), in paragraph (a)—
- (a) for the words “and swine-fever” substitute “, swine-fever and transmissible spongiform encephalopathies ”;
 - (b) after “applies” insert “ and any disease in respect of which an order under section 32A is in force ”.

3 Disease control (slaughter) protocol

In the 1981 Act the following sections are inserted after section 32A (as inserted by section 2 above)—

“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;

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- (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.
 - (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.

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.”

4 Explanation of preventive slaughter

In the 1981 Act the following section is inserted after section 32C (as inserted by section 3 above)—

“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).

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- (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 power in such circumstances must be taken to have been done without lawful authority.”

5 Slaughter of vaccinated animals

In the 1981 Act the following section is inserted after section 16—

“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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