
 STATUTORY INSTRUMENTS

1989 No. 878

ANIMALS

ANIMAL HEALTH

The Tuberculosis (Deer) Order 1989

Made - - - - 22nd May 1989

Coming into force

Article 13 1st September 1989

Remainder 1st June 1989

The Minister of Agriculture, Fisheries and Food, in relation to England, the Secretary of State for Scotland in relation to Scotland, and the Secretary of State for Wales in relation to Wales, in exercise of the powers conferred on them by section 1, 7(1), 8(1), 15(4), 25, 72 and 86(1) of the Animal Health Act 1981(a) and of all other powers enabling them in that behalf, hereby make the following Order:

Title and commencement

1.—(1) This Order may be cited as the Tuberculosis (Deer) Order 1989 and, except for article 13, shall come into force on 1st June 1989.

(2) Article 13 of this Order shall come into force on 1st September 1989.

Interpretation

2.—(1) In this Order, unless the context otherwise requires—

“the Act” means the Animal Health Act 1981;

“affected animal” means a deer which is affected with tuberculous emaciation, or is excreting or discharging tuberculous material, or is affected with a chronic cough and shows clinical signs of tuberculosis or is a reactor, and “suspected animal” shall be construed accordingly;

“appropriate Minister” means, in relation to England, the Minister, and in relation to Scotland or Wales, the Secretary of State;

“appropriate officer” means a veterinary inspector or, in relation to England another officer of the Ministry or, in relation to Scotland or Wales, an officer of the Secretary of State;

“approved disinfectant” means a disinfectant listed in the Diseases of Animals (Approved Disinfectants) Order 1978(b) as being approved for the time being for use against tuberculosis;

“carcase” means the carcase of a deer, and includes part of a carcase and the flesh, bones, hide, skin, hooves, offal or other part of a deer, separately or otherwise, or any portion thereof;

“cattle” means bulls, cows, steers, heifers and calves;

(a) 1981 c.22; section 86(1) contains a definition of “the appropriate Minister” relevant to the exercise of the statutory powers under which this Order is made. The definition of “disease” in section 88(1) of the Act was extended, in relation to England and Wales, by article 3 of S.I. 1984/1943 so as to include tuberculosis and, in relation to Scotland, by a corresponding provision of S.I. 1984/2063.

(b) S.I. 1978/32; relevant amending instrument is S.I. 1989/144.

“deer” means deer of any species;

“the Divisional Veterinary Officer” means the veterinary inspector appointed for the time being by the Minister to receive information about affected or suspected animals, or the carcasses of such animals, for the area in which such animals or carcasses are;

“the Minister” and “the Ministry” mean respectively the Minister and the Ministry of Agriculture, Fisheries and Food;

“premises” includes land with or without buildings but does not include any part or parts of any premises used for the temporary detention of animals as a market, sale-yard, fairground, lair or place of exhibition;

“reactor” means a deer which gives rise to a reaction consistent with its being affected with tuberculosis when tested for that disease either by or on behalf of the appropriate Minister or otherwise, as the case may be, provided that in the case of a test otherwise so carried out the result thereof has been reported to the appropriate Minister;

“veterinary inspector” means a veterinary inspector appointed by the Minister;

“veterinary surgeon” means a person registered in the register of veterinary surgeons or the supplementary veterinary register.

(2) Any reference in this Order to a lettered form is a reference to a form bearing that letter in the Schedule to this Order.

Application of the Order

3. The provisions of this Order shall not apply in relation to approved premises, within the meaning of the Importation of Animals Order 1977(a) and shall apply in relation to imported animals only—

(a) from the time specified in the licence issued under article 11(5) of that Order; or

(b) where the existence or suspected existence of disease in any part of Great Britain makes it expedient that no such licence should be issued for the time being, from the time when those animals have completed the period of detention in quarantine required under the provisions of that Order, or, as the case may be, have been rested in an approved reception centre for the period so required.

Notification of disease in deer

4.—(1) A person who has in his possession or under his charge an affected or a suspected animal and a veterinary surgeon who in the course of his duties, examines any such animal shall, with all practicable speed, give notice of the fact to the Divisional Veterinary Officer.

(2) A person who has in his possession or under his charge an affected or a suspected animal shall forthwith detain it on the premises where it then is and isolate it as far as practicable from other animals.

Notification of disease in carcasses

5.—(1) A person who has in his possession or under his charge a carcass which is affected with or suspected of being affected with tuberculosis, and any veterinary surgeon or other person who in the course of his duties examines any such carcass shall, with all practicable speed, give notice of the fact to the Divisional Veterinary Officer.

(2) A person who has in his possession or under his charge a carcass which is affected or suspected of being affected with tuberculosis shall detain it, or so much of it as is affected with or suspected of being affected with tuberculosis, on the premises where it then is until it has been examined by a veterinary inspector.

Veterinary enquiry as to the existence of disease

6.—(1) Where by reason of information received, whether under article 4 or article 5 above or otherwise, a veterinary inspector has reasonable grounds for supposing that there is on any premises an affected or a suspected animal or a carcass which is affected

(a) S.I. 1977/944.

with or suspected of being affected with tuberculosis he shall, with all practicable speed, take such steps as may be necessary to establish the correctness of that information.

(2) For the purposes of such an enquiry a veterinary inspector may—

- (a) examine any deer or carcase on the premises;
- (b) make such tests and take such samples from any deer or carcase on the premises as he may consider necessary for the purpose of diagnosis;
- (c) paint, stamp, clip, tag or otherwise mark any deer or carcase on the premises.

(3) If so required by a veterinary inspector the owner or person in charge of any deer or carcase on the premises shall mark the deer or carcase in the manner required by the veterinary inspector.

(4) The occupier of the premises and his employees, and any person who is or has been in possession or charge of any deer or carcase which is or has been on the premises, shall—

- (a) provide such reasonable facilities and comply with such reasonable requirements as are necessary for the purposes of the enquiry; and
- (b) if so required by an appropriate officer give such information as he possesses as to—
 - (i) any deer or carcase which is or has been on the premises,
 - (ii) any other deer or carcase with which any deer or carcase which is or has been on the premises may have come into contact, and
 - (iii) the location and movement of any deer or carcase which is or has been in his possession or charge.

(5) A veterinary inspector shall serve a notice in Form A on the owner or person in charge of any deer examined by him which in his opinion is an affected or suspected animal.

(6) On the service of a notice in Form A the requirements contained in that notice shall have effect.

(7) A notice in Form A shall remain in force until it is withdrawn by a notice in Form B served by a veterinary inspector on the owner or person in charge of the deer to which the notice in Form A relates.

Testing of deer

7. An appropriate officer may, by notice in writing served on the owner or person in charge of any deer, require him—

- (a) to arrange for any deer which may be specified in the notice to be tested for tuberculosis at his own expense and in such manner and within such period as may be so specified; and
- (b) to report the result of any such test to the Divisional Veterinary Officer as soon as practicable.

Prohibition on vaccination and therapeutic treatment

8.—(1) No person shall vaccinate any deer against tuberculosis.

(2) No person shall treat any deer for tuberculosis.

Precautions against spread of infection

9.—(1) Where the appropriate Minister is satisfied that there is on any premises a deer which is an affected animal—

- (a) a veterinary inspector may, by notice in writing served on the owner or person in charge of such deer, require him to take such steps as may be reasonably practicable to prevent any deer kept on the premises from infecting by contact any deer or cattle kept on any adjoining premises; and
- (b) an appropriate officer may, by notice in writing served on the owner or person in charge of such deer, require him—
 - (i) to arrange for the isolation of any deer which may be specified in the notice on any part or parts of the premises so specified;

- (ii) to ensure that any part or parts of the premises specified in the notice shall not be used by any deer or cattle on the premises, or by such deer or cattle as may be so specified;
- (iii) at his own expense, and within such time and in such manner as may be specified in the notice to cleanse and disinfect such part or parts of the premises as may be so specified;
- (iv) to treat and store manure or slurry from any place which has been used by such deer in accordance with the requirements of the notice;
- (v) not to spread any manure or to spray or spread any slurry from any place which has been used by any such deer otherwise than in accordance with the requirements of the notice;
- (vi) to cleanse and wash all utensils and other articles used for or about a deer to which the notice relates within such time and in such manner as may be specified in the notice.

(2) Where an appropriate officer has reasonable grounds for supposing that a deer which is on, or which has been on, any premises which are used for any show, exhibition, market, sale or fair, is an affected animal or has been exposed to the infection of tuberculosis, he may, by notice in writing served on the occupier of such premises, require him—

- (a) to ensure that any part or parts of the premises specified in the notice shall not be used by any other deer for such period as may be so specified;
- (b) at his own expense, and within such time and in such manner as may be specified in the notice—
 - (i) to cleanse and disinfect such part or parts of the premises as may be so specified;
 - (ii) to dispose of any manure, slurry or other animal waste, straw, litter or other matter which, to his knowledge, has or might have come into contact with such deer.

(3) If any person on whom a notice is served under paragraphs (1)(b) or (2) above fails to comply with the requirements of the notice, the appropriate Minister may, without prejudice to any proceedings arising out of such default, carry out or cause to be carried out the requirements of the notice, and the amount of any expenses reasonably incurred by the appropriate Minister for the purpose of making good the default shall be recoverable by him as a civil debt from the person in default.

(4) A notice served under paragraph (1)(b)(i) or (ii) above shall remain in force until withdrawn by a further notice in writing served by an appropriate officer on the owner or person in charge of the deer to which that notice relates.

Prohibition on movement of deer and carcasses

10.—(1) A veterinary inspector may, by notice in writing served on the owner or person in charge of any deer kept on such premises as are specified in the notice, prohibit the movement of any deer or carcasses on to or off such premises, except under the authority of a licence issued by an appropriate officer and in accordance with any conditions subject to which the licence is issued.

(2) A notice served under paragraph (1) above shall remain in force until withdrawn by a further notice in writing served by a veterinary inspector on the owner or person in charge of the deer to which that notice relates.

Manure, slurry etc.

11. Where a notice has been served on the owner or person in charge of any deer under the provisions of article 10(1) above which prohibits the movement of such deer off the premises specified in the notice except under the authority of a licence, no manure, slurry or other animal waste shall be removed from such premises except under the authority of a licence issued by the appropriate officer and in accordance with any conditions subject to which such licence is issued.

Suspected animals in markets, shows and sales

12.—(1) Where a veterinary inspector has reasonable grounds for supposing that a deer on any premises at which a show, exhibition, market, sale or fair is being held, is infected with, or has been exposed to the infection of tuberculosis, he may require that deer to be removed from those premises, and (as the owner or person in charge of the deer may elect) taken either—

- (a) back to the premises from which the deer was brought to the show, exhibition, market, sale or fair; or
- (b) to such other premises as may be approved by the appropriate officer for the purpose.

(2) A deer shall only be moved in accordance with the provisions of paragraph (1)(a) or (b) above on condition that it is immediately put into isolation for a period to be terminated by a notice in writing served on the owner or person in charge of the said deer by an appropriate officer.

Identification of deer

13.—(1) Subject to paragraph (3) below, the owner of a deer which is kept on a deer farm (whether or not that deer is a farmed deer) shall mark or identify the deer in a manner approved by the appropriate Minister and shall thereafter maintain such mark or identification so as to be clearly legible.

(2) No person shall move a deer on to or off any premises unless it is marked or identified in a manner approved by the appropriate Minister.

(3) The requirement in paragraph (1) above shall not apply in relation to any deer less than 16 weeks old.

(4) In this article—

- (a) “deer farm” means any land on which farmed deer are kept; and
- (b) “farmed deer” means any deer which—
 - (i) are kept by any person by way of business on land enclosed by a deer-proof barrier; and
 - (ii) are kept by him
 - for sale; or
 - primarily for the purpose of the production of meat or other foodstuffs or skins or other by-products; or
 - primarily for breeding purposes;

Restriction on the sale of unidentified deer in markets

14. The owner of a deer shall not expose it for sale or cause or permit it to be exposed for sale in any market or sale-yard unless—

- (a) the deer has been marked or identified in accordance with the provisions of article 13(2) above; and
- (b) such mark or identification is so maintained as to be clearly legible.

Production of licences

15. Where a deer is moved under the authority of a licence issued under this Order—

- (a) the deer shall be accompanied throughout such movement by the licence; and
- (b) the person in charge of the deer being so moved shall, on demand made under this Order by an appropriate officer, or by an inspector of the local authority or by a member of a police force furnish his name and address and shall produce the licence and allow a copy thereof or extract therefrom to be taken.

Enforcement by local authority

16. This Order shall, except where otherwise expressly provided, be executed and enforced by the local authority.

Offences

17. Any person who, without lawful authority or excuse, proof of which shall lie on him—

- (a) defaces, obliterates or removes any mark or identification as is referred to in article 6(2)(c), 6(3) or 13 above; or
- (b) contravenes any provision of this Order or of a licence issued or of a notice served under this Order; or
- (c) fails to comply with any such provision or with any condition of any such licence or notice or with any requirement made under this Order;
- (d) causes or permits any such contravention or non-compliance,

commits an offence against the Act.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 22nd May 1989.



John MacGregor
Minister of Agriculture, Fisheries and Food

17th May 1989

Sanderson of Bowden
Minister of State, Scottish Office

18th May 1989

Peter Walker
Secretary of State for Wales

SCHEDULE
FORM A
ANIMAL HEALTH ACT 1981
THE TUBERCULOSIS (DEER) ORDER 1989
(Article 6)

NOTICE REQUIRING DETENTION AND ISOLATION OF AFFECTED OR SUSPECTED ANIMALS AND PROHIBITING
MOVEMENT OF DEER AND THEIR CARCASSES

To.....
of

I, the undersigned, being a veterinary inspector of the Ministry of Agriculture, Fisheries and Food, hereby give you notice in accordance with the provisions of the above Order that, as the owner/*person in charge of the deer specified below which is an affected or suspected animal for the purposes of the above Order, you are required-

- (a) to detain the said deer on the premises known as (insert description of premises including full postal address) and to keep them isolated, as far as practicable, from other deer and from cattle; and
- (b) to ensure that no deer or carcasses are moved on to or off the premises except under the authority of a licence issued by a veterinary inspector and in accordance with any conditions subject to which the licence is issued.

This notice remains in force until it is withdrawn by a further notice served by a veterinary inspector.

Breach of the requirements of this notice may constitute an offence against the Animal Health Act 1981 and render a person liable to penalties on conviction.

The deer to which this notice applies are specified in the table below.

Description of deer to include age, species and sex

Signed..... Dated 19.....
Name in block letters
Official address

* Delete as appropriate.

FORM B
ANIMAL HEALTH ACT 1981
THE TUBERCULOSIS (DEER) ORDER 1989
(Article 6)

WITHDRAWAL OF NOTICE DECLARING AN INFECTED PLACE (FORM A)

To.....
of

I, the undersigned, being a veterinary inspector of the Ministry of Agriculture, Fisheries and Food, hereby withdraw, as from this day of 19, the infected place notice (Form A) relating to the premises known as (insert description of premises including full postal address) served on you on the day of 19

Signed..... Dated 19.....

Name in block letters

Official address

EXPLANATORY NOTE

(This note is not part of the Order)

This Order contains provisions relating to tuberculosis in deer and, in particular, provides for-

- (a) the compulsory notification of tuberculosis in deer and in carcases of deer (articles 5 and 6);
- (b) the investigation by a veterinary inspector into the existence of tuberculosis in deer and the examination by him of deer and their carcases for this purpose (article 6(1), (2) and (3));
- (c) the imposition (by notice in Form A served by a veterinary inspector) of certain requirements in respect of deer which are affected or suspected of being affected with tuberculosis, including the isolation of such deer from all other deer and from cattle (article 6(4), (5) and (6));
- (d) the testing of deer (if required by notice) and the reporting of the results of such tests (article 7);
- (e) the prohibition of the vaccination and treatment of deer for tuberculosis (article 8);
- (f) precautions which may be required (by notice) to be taken against the spread of tuberculosis in deer, including the isolation of deer and the cleansing and disinfection of premises (articles 9 and 10);
- (g) the marking and identification of deer (article 13);
- (h) the prohibition of the exposure for sale in a market of a deer by its owner unless it is marked or identified in accordance with the provisions of the Order and the mark or identification is clearly legible (article 14); and
- (i) offences (article 17).

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OPEN SPACES

The Royal Botanic Garden, Edinburgh Regulations 1989

Made 8th May 1989

Coming into force 1st June 1989

The Secretary of State, in exercise of the powers conferred by section 2(1) of the Parks Regulation (Amendment) Act 1926(a), and now vested in him (b), and of all other powers enabling him in that behalf, hereby makes the following Regulations, a draft of which has been laid before Parliament in accordance with section 6(2) of the Statutory Instruments Act 1946(c) for a period of 40 days during which period neither house has resolved that the Regulations be not made:

Citation and commencement

1. These Regulations may be cited as the Royal Botanic Garden, Edinburgh Regulations 1989 and shall come into force on 1st June 1989.

Interpretation

2. In these Regulations—

“notice or sign” means a notice or sign exhibited by order of the Trustees;

“the parks” means the Royal Botanic Garden, Edinburgh and its outstations at the Younger Botanic Garden Benmore, the Logan Botanic Garden and the Dawyck Botanic Garden; and “any part of the parks” means any component part of the parks as defined in this regulation;

“park constable” means such a constable, within the meaning of section 3 of the Parks Regulation Act 1872(d), who has jurisdiction in the parks;

“police constable” means any police constable belonging to the police force for a police area which includes the parks or any part thereof;

“Trustees” means the Board of Trustees of the Royal Botanic Garden, Edinburgh constituted under section 10(1) of the National Heritage (Scotland) Act 1985(e).

Prohibited acts

3. No person shall—

(a) enter any part of the parks if that person is under the age of fourteen years, unless accompanied by an adult;

(a) 1926 c.36; section 2(1) was amended by the Criminal Procedure (Scotland) Act 1975 (c.21), sections 289F and 289G (as inserted by the Criminal Justice Act 1982 (c.48), section 54).

(b) In terms of the Ministry of Works (Transfer of Powers) (No. 1) Order 1945, S.R. & O. 1945/991 (Rev. XV, p.232); The Minister of Works (Change of Style and Title) Order 1962, S.I. 1962/1549 and the Transfer of Functions (Scottish Royal Parks and Ancient Monuments) Order 1969, S.I. 1969/383.

(c) 1946 c.36.

(d) 1872 c.15, section 3 was amended by paragraph 1 of the Schedule to the Parks Regulation (Amendment) Act 1974 (c.29).

(e) 1985 c.16; in terms of section 11(3) of the 1985 Act the Board's name shall not be taken to confine their activities to Edinburgh.

- (b) enter any part of the parks after having been requested by a park constable or police constable not to do so or in contravention of any notice or sign displayed at any part of the parks, including any notice or sign stipulating conditions of admission;
- (c) remain in any part of the parks after having been requested by a park constable or police constable to leave it;
- (d) bring into or have in any part of the parks any animal other than a guide dog accompanying a blind person;
- (e) picnic in any part of the parks, except in any picnic area authorised by notice or sign displayed at the site of any such picnic area;
- (f) wilfully disturb or injure, in any part of the parks, any animal, fish or bird or take any egg;
- (g) go on any enclosure, flower bed, shrubbery, or lawn, in any part of the parks, access to which is prohibited by notice or sign;
- (h) climb, in any part of the parks, any tree, railing, fence or structure of any kind;
- (i) destroy, pluck, cut or injure, in any part of the parks, any flower or part of any tree, shrub or plant;
- (j) wilfully interfere with the comfort or convenience of any person in any of the parks;
- (k) collect or solicit money in any part of the parks;
- (l) drop or leave litter in any part of the parks, except in a receptacle provided for the purpose;
- (m) pollute any water in any part of the parks;
- (n) operate or use any mechanically propelled or operated toy or model in any part of the parks;
- (o) behave or be clothed, whilst in any part of the parks, in any manner reasonably likely to offend against public decency;
- (p) fish, bathe, boat or skate in any part of the parks;
- (q) sail any model boat in any part of the parks;
- (r) smoke in any plant house or plant exhibition hall or in any area or building within any part of the parks where a sign is displayed prohibiting smoking;
- (s) bring into any part of the parks any flowers or any package or other article or container after being requested by a park constable or police constable not to do so;;
- (t) leave in any part of the parks any object or article, when requested by a park constable or police constable to remove such object or article from that park.

Acts for which written permission is required

4. Unless prior written permission of the Trustees has been obtained, no person shall—
- (a) drive or ride, or have, in any part of the parks, any vehicle other than an electric or hand or foot propelled invalid carriage;
 - (b) enter, or wilfully remain, in any part of the parks, at any time when not open to the public;
 - (c) carry on any trade or business in any part of the parks;
 - (d) sell or distribute anything or offer anything for sale or hire, in any part of the parks;
 - (e) exhibit or affix any notice, advertisement or other written or pictorial matter or give any display, performance or representation in any part of the parks;
 - (f) play or cause to be played any musical instrument in any part of the parks;
 - (g) erect or use, in any part of the parks, any apparatus for the transmission, reception, reproduction or amplification of sound, speech or images by electrical or mechanical means, except apparatus designed and used as an aid to defective hearing;
 - (h) light a fire or discharge any firearm, firework or other weapon or missile in any part of the parks;
 - (i) take, in any part of the parks, any photographs for commercial purposes;
 - (j) sketch or paint in any part of the parks;
 - (k) play any game or engage in any form of sport or physical exercise in any part of the parks;
 - (l) make or give any public speech or address in any part of the parks;

- (m) organise, conduct or take part in any assembly, parade or procession in any part of the parks.

General

5. Any person challenged by a park constable or police constable with a contravention of these Regulations shall on demand by such park constable or police constable give his full name and address.

Revocation

6. The Royal Botanic Garden and Arboretum, Edinburgh, Regulations 1970(a) are hereby revoked.

St. Andrew's House, Edinburgh
8th May 1989

Sanderson of Bowden,
Minister of State,
Scottish Office

(a) S.I. 1970/1961.

EXPLANATORY NOTE

(This note does not form part of the Regulations)

These Regulations revoke and replace the Royal Botanic Garden and Arboretum Edinburgh, Regulations 1970 ("the 1970 Regulations").

They prescribe (a) those acts which are prohibited and (b) those acts for which written permission is required, within the Royal Botanic Garden, Edinburgh and its outstations at the Younger Botanic Garden Benmore, the Logan Botanic Garden and the Dawyck Botanic Garden (regulations 3 and 4).

The Regulations take account of the appointment under the National Heritage Act 1985 of a Board of Trustees for the Garden.

The main changes are—

- (a) that any notices or signs exhibited at the Garden will be by Order of the Board of Trustees;
- (b) that certain acts (which under the 1970 Regulations required the written permission of the Secretary of State) now require the written permission of the Board of Trustees;
- (c) that picnicking is permitted in certain areas of the Garden;
- (d) that certain acts, which were prohibited altogether under the 1970 Regulations are now permitted providing written permission of the Board of Trustees has been obtained (regulation 4(k), (l) and (m)).

Any person challenged by a park constable or police constable with a contravention of these Regulations must supply his full name and address (regulation 5).

In terms of section 2(1) of the Parks Regulation (Amendment) Act 1926 any person who fails to comply with or acts in contravention of the Regulations shall be guilty of an offence and shall be liable on summary conviction to a penalty not exceeding Level 1 on the standard scale (at present £50).

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