

2014 No. 2337

ANIMALS, ENGLAND

ANIMAL HEALTH

The Tuberculosis (Deer and Camelid) (England) Order 2014

Made - - - - *21st August 2014*
Coming into force - - *1st October 2014*

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The Secretary of State in exercise of the powers conferred by sections 1, 7(1), 8(1), 15(4), 25, 34(7)(a), and 83(2) of the Animal Health Act 1981^(a) and now vested in the Secretary of State^(b), makes the following Order.

PART 1
Introductory provisions

Title, commencement, application and expiry

1.—(1) This Order may be cited as the Tuberculosis (Deer and Camelid) (England) Order 2014 and comes into force on the 1st October 2014.

(2) This Order applies in England.

(3) This Order ceases to have effect at the end of the period of seven years beginning with the day on which this Order comes into force.

Interpretation

2. In this Order—

“the Act” means the Animal Health Act 1981;

“affected animal” means an deer or camelid (as applicable) which—

- (a) shows clinical signs of tuberculosis,
- (b) gives rise to a reaction consistent with its being infected with tuberculosis when tested for that disease either by or on behalf of the Secretary of State, or
- (c) has been exposed to the infection of tuberculosis;

“appropriate officer” means a veterinary inspector, inspector or other officer of the Secretary of State;

“approved disinfectant” means a disinfectant listed in the Diseases of Animals (Approved Disinfectants) (England) Order 2007^(c) as being approved for the time being for use against tuberculosis;

“camelid” means any species of South American camelid, including llama, alpaca, vicuna and guanaco;

“carcase” includes any part of an animal;

“deer” means deer of any species that are managed by a keeper (including deer that are managed on enclosed park land), but for the purpose only of article 4 includes wild deer;

(a) 1981 c. 22.

(b) Functions conferred under the Act were transferred, so far as exercisable by the Secretaries of State for Scotland and Wales, to the Minister of Agriculture, Fisheries and Food by S.I. 1999/3141. Functions of the Minister of Agriculture, Fisheries and Food were then further transferred to the Secretary of State by S.I. 2002/794.

(c) S.I. 2007/448, amended by S.I. 2011/1509; there are other amending instruments but none is relevant..

“keeper” means any person who owns or is responsible for a deer or camelid (as applicable), whether on a permanent or temporary basis, but it does not include a person solely responsible for transporting such an animal;

“premises” includes land with or without buildings;

“relevant test” means a tuberculin skin test or any other diagnostic test for tuberculosis approved by the Secretary of State;

“tuberculosis” means infection with *Mycobacterium bovis* (*M.bovis*).

PART 2

Deer

Notification of suspected tuberculosis in a deer

3.—(1) A keeper of a deer, or a veterinary surgeon who examines a deer, who suspects that it may be an affected animal, must give immediate notice of such suspicion to the Secretary of State.

(2) Following such notification the deer must be detained on the premises on which it was located at the time when the notification was made, and isolated as far as practicable from deer and other livestock prior to a veterinary inquiry taking place under article 5.

Notification of suspected tuberculosis in a deer carcass

4.—(1) A person in possession or charge of a deer carcass, or a veterinary surgeon who examines any such carcass, who suspects that the carcass may be affected with tuberculosis must give immediate notice of such suspicion to the Secretary of State.

(2) Following such notification the carcass must be detained on the premises on which it was located at the time when notification was given, and isolated as far as practicable from other deer and livestock prior to a veterinary inquiry taking place under article 5 or a diagnostic sample being taken from the carcass under the direction of a veterinary inspector.

(3) If the carcass is in a slaughterhouse the operator of the slaughterhouse must keep it isolated from other carcasses of slaughtered animals.

Veterinary inquiry as to the existence of tuberculosis in deer

5.—(1) A veterinary inspector must with all practicable speed carry out a veterinary inquiry—

- (a) following a notification under article 3 or 4, or
- (b) as a result of having reasonable grounds for believing that there is on premises—
 - (i) an affected animal; or
 - (ii) a deer or a deer carcass which may be affected with tuberculosis.

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

- (a) examine any deer or carcass;
- (b) carry out such tests and take such samples from any deer or carcass as considered necessary for the purpose of diagnosis; and
- (c) paint, stamp, clip, tag or otherwise mark any deer or carcass.

(3) If so required by a veterinary inspector the keeper must mark the deer or carcass in the manner required by the veterinary inspector.

(4) The occupier of the premises and any keeper of the deer (if a different person) must—

- (a) provide such reasonable facilities and comply with such reasonable requirements as are necessary for the purposes of the inquiry; and
- (b) if so required by an appropriate officer, provide information 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.

(5) An inspector must serve a notice on the keeper of any examined deer or carcase requiring the keeper to detain it on the premises and to isolate it, as far as practicable, from other deer or livestock and ensure that no deer or deer carcase is moved on to or off the premises except under a licence granted by an inspector.

(6) A notice remains in force until it is withdrawn by further notice served by an appropriate officer after it has been determined that tuberculosis is not present in the deer or carcase.

Testing of deer

6. An appropriate officer may by notice require a keeper of deer to—
- (a) arrange for specified deer to be tested for tuberculosis with a relevant test at the keeper's own expense by a specified date; and
 - (b) report any positive tuberculosis result of such test to the Secretary of State as soon as the result is known.

Slaughter of deer to prevent spread of tuberculosis

7.—(1) Where the Secretary of State exercises powers conferred by section 32(1) of the Act to slaughter a deer affected by tuberculosis, the Secretary of State may—

- (a) by notice require the keeper to detain the affected animal prior to removal and slaughter;
- (b) arrange for the disposal of any deer carcase.

(2) Following service of such notice the keeper must not move the deer, or cause or permit it to be moved, off the part of the premises on which it is required by the notice to be detained, except under the authority of a licence issued by an appropriate officer.

Prohibition on vaccination and therapeutic treatment of deer

8.—(1) A person must not vaccinate a deer against tuberculosis.

(2) A person must not provide therapeutic treatment to a deer for tuberculosis without the written consent of the Secretary of State other than for ensuring the basic welfare requirements of the animal.

Precautions against spread of tuberculosis infection in deer

9.—(1) Where the Secretary of State believes that there is on premises a deer that is an affected animal, an appropriate officer may by notice require the keeper to—

- (a) take reasonable steps to prevent the affected animal from coming into contact with any other farmed animal kept on the same premises or on adjoining premises;
- (b) prevent the movement of deer on to or off such premises except under a licence issued by an inspector.

(2) A notice under paragraph (1) may require the keeper—

- (a) to arrange for the isolation of any deer on any part or parts of the premises;
- (b) to ensure that any part of the premises must not be used by deer or cattle;
- (c) to cleanse and disinfect with an approved disinfectant such part of the premises as may be specified in the notice at the keeper's own expense, and within such time and in such manner as may be specified;
- (d) to treat and store solid or liquid animal waste from any place which has been used by the affected animal in accordance with the requirements of the notice;

- (e) not to spread solid or liquid animal waste from any place which has been used by an affected animal otherwise than in accordance with the requirements of the notice;
- (f) to cleanse and wash all utensils and other articles that may have contact with the affected animal to which the notice relates within such time and in such manner as may be specified in the notice.

(3) Where the Secretary of State reasonably believes that a deer is affected by tuberculosis, or has been exposed to the infection of tuberculosis, and that deer is on, or has been on, any premises which are used for the purpose of a market, sale, lairage, fair or show, an appropriate officer may by notice require the occupier of such premises—

- (a) not to allow deer on to any part of the premises for such period as may be so specified;
- (b) at the occupier's own expense, and within such time and in such manner as may be specified in the notice—
 - (i) to cleanse and disinfect with an approved disinfectant such part of the premises as may be so specified;
 - (ii) to dispose of any manure, slurry or other farmed animal waste, straw, litter or other matter which, to the occupier's knowledge, has or might have come into contact with the deer.

(4) A veterinary inspector may by notice require the removal of an affected animal from a market, sale, lairage, fair or show—

- (a) back to the premises from which it has come, or
- (b) to another premises approved by an appropriate officer for the purpose,

and on arrival at such premises the affected animal must immediately be placed by the keeper in isolation until such time as the veterinary inspector is satisfied that it is not affected with tuberculosis.

Identification and movement of deer

10.—(1) A person must not move a deer on to or off any premises unless—

- (a) the deer is identified by an ear tag in a manner approved by the Secretary of State,
- (b) the move is made under the authority of a licence granted under the Disease Control (England) Order 2003(a), and
- (c) the move is recorded in accordance with the Movement of Animals (Records) Order 1960(b).

(2) A person must not move the carcase of any deer on to or off any premises other than in a manner approved by the Secretary of State.

(3) A person must not expose a deer 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 paragraph (1)(a); and
- (b) such mark or identification is so maintained as to be clearly legible.

(a) S.I. 2003/1729, amended by S.I. 2012/2897; there are other amending instruments but none is relevant.

(b) S.I. 1960/105, amended by S.I. 1989/879 and 1995/12; there are other amending instruments but none is relevant.

PART 3

Camelids

Notification of suspected tuberculosis in a camelid carcass

11.—(1) A person in possession or charge of a camelid carcass, or a veterinary surgeon who examines a camelid carcass, who suspects that the carcass may be affected with tuberculosis must give immediate notice of such suspicion to the Secretary of State.

(2) Following such notification the carcass must be detained on the premises on which it was located at the time when notification was given, and isolated as far as practicable from other camelids and livestock prior to a diagnostic sample being taken from the carcass under the direction of a veterinary inspector.

(3) If the suspect carcass is in a slaughterhouse the operator of the slaughterhouse must keep the carcass isolated from other carcasses of slaughtered animals.

Tuberculosis testing of camelids

12.—(1) The Secretary of State may by notice served on a camelid keeper require specified camelids to be tested by the Secretary of State for tuberculosis by a specified date.

(2) Where the keeper fails to allow such a test to be undertaken, the Secretary of State may by further notice prohibit the keeper from moving any camelid on to or off premises, except under the authority of a licence issued by an inspector.

(3) The camelid keeper must comply with all reasonable requirements of an inspector with a view to facilitating—

- (a) examination of any camelid by a veterinary inspector;
- (b) the application of a relevant test to a camelid specified in the notice;
- (c) the reading and assessment of any of any skin test;
- (d) the isolation of a camelid that has been tested and has revealed a reaction consistent with it being affected with tuberculosis;
- (e) the marking, clipping, tagging or identification in a manner approved by the Secretary of State of a camelid that has revealed such a reaction; and
- (f) the collection, penning and securing of any camelid for testing or removal for slaughter.

(4) Without prejudice to any proceedings for an offence under this Order, where there has been a failure by a keeper to comply with this article, the Secretary of State may take or cause to be taken all reasonable steps that the Secretary of State believes may be necessary to facilitate the examination, testing and removal of a camelid from the premises, and the amount of any expenses reasonably incurred by the Secretary of State is recoverable from the keeper.

(5) A person must not perform a test for tuberculosis on a camelid except with the written consent of the Secretary of State, and a person to whom such consent is given must, as soon as any positive tuberculosis result of such test is known, report such result to the Secretary of State.

Prohibition on vaccination and therapeutic treatment of camelids

13.—(1) A person must not vaccinate a camelid against tuberculosis.

(2) A person must not provide therapeutic treatment to a camelid for tuberculosis without the written consent of the Secretary of State other than for ensuring the basic welfare requirements of the animal.

Precautions against spread of tuberculosis infection in camelids

14.—(1) Where the Secretary of State believes that there is on premises a camelid that is an affected animal, an appropriate officer may by notice require the keeper to—

- (a) take reasonable steps to prevent the affected animal from coming into contact with any other farmed animal on the same premises or on adjoining premises;
- (b) prevent the movement of camelids on to or off such premises except under a licence issued by an inspector.

(2) Such notice may require the keeper—

- (a) to arrange for the isolation of any camelid on any part of the premises;
- (b) to ensure that any specified part of the premises must not be used by camelids or cattle;
- (c) to cleanse and disinfect with an approved disinfectant any such part of the premises as may be specified in the notice at the keeper's own expense, and within such time and in such manner as may be specified;
- (d) to treat and store solid or liquid animal waste from any place which has been used by the affected animal in accordance with the requirements of the notice;
- (e) not to spread any solid or liquid animal waste from any place which has been used by the affected animal otherwise than in accordance with the requirements of the notice;
- (f) to cleanse and wash all utensils and other articles that may have come in contact with the affected animal within such time and in such manner as may be specified.

(3) Where the Secretary of State reasonably believes that a camelid is affected by tuberculosis or has been exposed to the infection of tuberculosis, and that camelid is on, or has been on, any premises which are used for any market, sale, lairage, fair or show, an appropriate officer may by notice require the occupier of such premises—

- (a) not to use any part of the premises for the occupation by animals specified in the notice for a period set down in the notice; and
- (b) at the occupier's own expense, and within such time and in such manner as may be specified in the notice—
 - (i) to cleanse and disinfect with an approved disinfectant any part or parts of the premises; and
 - (ii) to dispose of any manure or other farmed animal waste, straw, litter or other matter which, to the occupier's knowledge, has or might have come into contact with the camelid.

(4) A veterinary inspector may require the removal of an affected animal from a market, sale, lairage, fair or show—

- (a) back to the premises from which it has come, or
- (b) to another premises approved by an appropriate officer,

and on arrival at such premises the affected animal must immediately be placed by the keeper in isolation until such time as the veterinary inspector is satisfied that it is not affected with tuberculosis.

Slaughter of camelids to prevent spread of tuberculosis

15.—(1) Where the Secretary of State exercises powers conferred by section 32(1) of the Act to slaughter a camelid affected by tuberculosis, the Secretary of State may—

- (a) by notice require the keeper to detain the affected animal prior to removal and slaughter;
- (b) arrange for the disposal of any camelid carcass.

(2) Following service of such notice the keeper must not move the camelid, or cause or permit it to be moved, off the part of the premises on which it is required by the notice to be detained, except under the authority of a licence issued by an appropriate officer.

PART 4

General provisions

Enforcement

16.—(1) A person who does anything in contravention of this Order commits an offence under section 73 of the Act.

(2) This Order is enforced by the local authority.

(3) The Secretary of State may direct, in relation to cases of a particular description or any particular case, that the Secretary of State will enforce this Order instead of the local authority.

(4) Where the Secretary of State makes a direction under paragraph (3), the Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of an offence under this Order.

Notices, licences and consents

17.—(1) Any notice, licence or consent under this Order may be amended, suspended or revoked in writing at any time.

(2) A licence granted under this Order may be—

- (a) general or specific;
- (b) subject to conditions.

(3) Where an animal is moved under the authority of a specific licence issued under this Order—

- (a) the animal must be accompanied throughout such movement by that licence; and
- (b) the keeper must on demand of an appropriate officer, an inspector of the local authority or a police officer produce the licence and allow a copy to be taken.

(4) A notice may be served on or given to a person by sending it by electronic means to the person's email address.

(5) In the case of a body corporate, a notice may be served on or given to an officer of that body.

(6) In the case of a partnership a notice may be served on or given to a partner or a person having control or management of the partnership business.

(7) In the case of an unincorporated association, a notice may be served on or given to an officer of the association.

(8) If the name or address of any occupier of premises on whom a notice is to be served or given under this Order cannot, after reasonable inquiry, be ascertained, the notice may be served by leaving it conspicuously affixed to a building or object on the premises.

(9) A notice may specify that a person in receipt of it must immediately inform an appropriate officer of its safe receipt.

(10) If any person on whom a notice is served fails to comply with the requirements of the notice, the Secretary of State 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 Secretary of State for the purpose of making good the default is recoverable as a civil debt from the person in default.

Ascertainment of market value of deer for purposes of payment of compensation

18.—(1) Where it is necessary to ascertain the market value for the purpose of establishing 50% of the market value of a deer in accordance with article 3(1)(b) of the Tuberculosis (Deer and Camelid) Slaughter and Compensation (England) Order 2014^(a) the following applies.

(2) The market value is to be determined—

- (a) by agreement between the Secretary of State and the owner;
- (b) by a valuer appointed jointly by the Secretary of State and the owner; or
- (c) failing such agreement or appointment, by a valuer nominated by the President of the Royal Institution of Chartered Surveyors.

(3) A valuer appointed or nominated under paragraph (2)(b) or (c) must—

- (a) be paid by the Secretary of State; and
- (b) give to the Secretary of State and the owner a certificate in writing of the value.

(4) For the purpose of obtaining an agreement under paragraph (2)(a) the Secretary of State may employ a valuer to agree the market value with the owner.

(5) For the purposes of this article, the market value of a deer is the price which might reasonably have been obtained for it at the time of valuation from a purchaser in the open market—

- (a) in the case of an affected deer, as if the deer were not an affected deer;
- (b) in the case of a deer which has been exposed to the infection of tuberculosis, as if it had not been so exposed.

Revocations

19. The following Orders are revoked—

- (a) the Tuberculosis (Deer) Order 1989^(b); and
- (b) the Tuberculosis (Deer) (Amendment) Order 1993^(c).

Transitional provisions

20. Any notice, licence or consent issued or given under the Tuberculosis (Deer) Order 1989 and which has effect at the coming into force of this Order remains in force as if it were a notice, licence or consent issued or given under this Order.

Review

21.—(1) The Secretary of State must from time to time—

- (a) carry out a review of this Order,
- (b) set out the conclusions of the review in a report, and
- (c) publish the report.

(2) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by this Order,
- (b) assess the extent to which those objectives are achieved, and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(a) S.I. 2014/2338.

(b) S.I. 1989/878, amended by S.I. 1993/2010 and 2009/2713.

(c) S.I. 1993/2010.

(3) The first report under this article must be published before the end of the period of five years beginning with the day on which the Order comes into force.

(4) Reports under this article are afterwards to be published at intervals not exceeding five years.

21st August 2014

Dan Rogerson
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

EXPLANATORY NOTE

(This note is not part of the Order)

This Order applies in England and replaces the Tuberculosis (Deer) Order 1989 (S.I. 1989/878) so as to update the disease controls for deer. It introduces tuberculosis disease controls for camelids (llama, alpaca, vicuna and guanaco) for the first time.

Article 1(3) provides that the Order is to cease to have effect seven years after it comes into force.

Part 2 deals with deer:

- the notification requirements (articles 3 and 4);
- veterinary inquiry into the presence of the disease (article 5);
- testing of deer (article 6);
- slaughter of deer to prevent spread of tuberculosis (article 7);
- prohibitions (article 8);
- precautions against the spread of infection (article 9);
- identification and movement (article 10).

Part 3 deals with camelids:

- notification of suspected tuberculosis in a carcass (article 11);
- testing of camelids (article 12);
- prohibitions (article 13);
- precautions against the spread of infection (article 14);
- slaughter of camelids to prevent spread of tuberculosis (article 15);

Part 4 contains general provisions.

Article 18 provides for the ascertainment of market value for deer as specified in article 4(2)(b) of the Tuberculosis (Deer and Camelid) Slaughter and Compensation (England) Order 2014 (S.I. 2014/2338).

Article 19 revokes two Orders, and article 20 contains transitional provisions.

In addition article 21 requires the Secretary of State to review the operation and effect of this Order and publish a report within five years after it comes into force and within every five years after that. Following a review it will fall to the Secretary of State to consider whether the Order should remain as it is, or be revoked or be amended. A further instrument would be needed to revoke the Order or to amend it.

An impact assessment has not been produced for this instrument as no impact on the costs of the private or voluntary sectors is foreseen. An Explanatory Memorandum covering this Order and the related Tuberculosis (Deer and Camelid) Slaughter and Compensation (England) Order 2014 is published alongside both instruments on www.legislation.gov.uk.

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