

Scottish Statutory Instrument 2000 No. 364

The Brucellosis (Scotland) Regulations 2000

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SCOTTISH STATUTORY INSTRUMENTS

2000 No. 364

ANIMALS

ANIMAL HEALTH

The Brucellosis (Scotland) Regulations 2000

<i>Made</i>	<i>12th October 2000</i>
<i>Laid before the Scottish Parliament</i>	<i>18th October 2000</i>
<i>Coming into force</i>	<i>1st November 2000</i>

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The Scottish Ministers, in exercise of the powers conferred on them by section 2(2) of the European Communities Act 1972[1], and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and extent

1. - (1) These Regulations may be cited as the Brucellosis (Scotland) Regulations 2000 and shall come into force on 1st November 2000.

(2) These Regulations extend to Scotland and where they extend beyond Scotland, they do so only as a matter of Scots law.

Interpretation

2. - (1) In these Regulations-

"abortion or premature calving" means an abortion or calving which takes place less than 271 days after service or insemination, or 265 days after implantation or transfer of an embryo, whether the calf is born dead or alive;

"approved laboratory" means a laboratory approved by the Scottish Ministers to carry out testing of milk for brucellosis;

"bovine animal" means a bull, cow, heifer or calf but does not include a steer;

"brucellosis" means the disease caused by *Brucella abortus*, otherwise known as contagious abortion;

"dealer in bovine animals" means any person whose trade or business regularly includes the selling of bovine animals purchased by that person for the purpose of resale within 28 days;

"Divisional Veterinary Manager" means the veterinary inspector appointed for the time being by the Scottish Ministers to receive information about animals which are infected or are suspected of being infected with brucellosis, or the carcasses of such animals, for the area in which such animals or carcasses are situated;

"full term calving" means a calving which takes place 271 days or more after service or insemination, or 265 days after implantation or transfer of an embryo, whether the calf is born dead or alive;

"inspector" means an inspector appointed by a local authority for the purpose of enforcing these Regulations;

"local authority" means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1984[2];

"premises" includes land with or without buildings;

"slaughterhouse" means any premises used for the commercial slaughter or killing of animals, whether or not the flesh of those animals is intended for human consumption, and includes any place available in connection therewith for the confinement of animals while awaiting slaughter there or for keeping or subjecting to any treatment or process, products of the slaughtering of animals there;

"steer" means a castrated bull or male calf aged four months or over;

"veterinary inspector" means a veterinary inspector appointed by the Scottish Ministers;

"veterinary surgeon" means a veterinary surgeon or veterinary practitioner registered under the Veterinary Surgeons Act 1966[3].

(2) A notice, approval or licence issued under these Regulations shall be in writing and may be issued subject to conditions and may be amended, suspended, withdrawn or revoked in writing at any time.

Special provisions for imported animals

3. The provisions of these Regulations shall not apply in relation to premises approved under the Importation of Animals Order 1977[4] and shall only apply in relation to imported bovine animals from the time specified in the licence issued in respect of those animals under article 11(5) of that Order.

Restrictions on vaccination and therapeutic treatment

4. - (1) No person other than-

- (a) a veterinary inspector;**
- (b) a veterinary surgeon authorised by the Scottish Ministers; or**
- (c) a person to whom a licence has been issued for the purpose by a veterinary inspector,**

shall vaccinate bovine animals against brucellosis.

(2) No person shall treat bovine animals for brucellosis.

Restrictions on the movement of bovine animals or steers

5. Where a veterinary inspector reasonably believes that a bovine animal kept on any premises is or may be infected with brucellosis, the veterinary inspector may serve a notice on the owner or occupier of any premises, prohibiting the movement of bovine animals or steers on to or off such premises, except under the authority of a licence issued by a veterinary inspector.

Movement of bovine animals or steers to specified premises

6. - (1) A veterinary inspector may, where it is considered necessary for the purpose of eradicating brucellosis, serve a notice on the owner or person in charge of bovine animals or steers kept on any premises, requiring the animals to be moved from the premises to such other premises and within such time limit as may be specified in the notice.

(2) Where a notice served in accordance with paragraph (1) above is in force, the owner or person in charge of such animals shall not move them from the premises specified in the notice except under the authority of a licence issued by a veterinary inspector.

(3) If any person on whom a notice under paragraph (1) above is served fails to comply with it, the Scottish Ministers may, without prejudice to any proceedings for an offence arising out of such default, carry out or cause to be carried out the requirements of the notice and the expenses reasonably incurred by the Scottish Ministers shall be recoverable by them from the person in default.

Sampling of milk for testing for evidence of the existence of brucellosis

7. - (1) Any person who buys milk from the owner or person in charge of a herd of dairy cows in Scotland for resale as milk or milk products shall-

- (a) select an approved laboratory to carry out testing of such milk for brucellosis;**
- (b) notify the Scottish Ministers of the laboratory selected;**
- (c) once each month and at that person's own expense submit a sample of milk (which includes milk from all the dairy cows in that herd whose milk is available**

for sale) to that laboratory for testing for evidence of the existence of brucellosis;

(d) add such preservative to the sample as may be requested by the person in charge of the laboratory; and

(e) ensure that the sample is labelled with-

(i) a bar code or other device which enables the laboratory to identify the herd or part of a herd from which the sample was taken; and

(ii) the date on which the sample was taken.

(2) A person is exempt from the duty imposed by paragraph (1) above, if that person only buys pre packed raw milk for resale-

(a) in the container in which that person received it with the fastenings unbroken;

(b) from a vehicle which is lawfully used as shop premises; and

(c) direct to the ultimate consumer.

(3) For the purposes of this regulation,

(a) "ultimate consumer" means any person who buys milk other than for the purposes of-

(i) resale;

(ii) a catering establishment; or

(iii) a manufacturing business; and

(b) "catering establishment" means a restaurant, canteen, club, public house, school, hospital or similar establishment (including a vehicle or a fixed or mobile stall) where, in the course of a business, food is prepared for delivery to the ultimate consumer and is ready for consumption without further preparation.

(4) No person shall in any way treat, other than by adding a preservative in accordance with paragraph (1)(d) above, or tamper with, any sample or its label and a person shall be deemed to have treated or tampered with a sample if that person does anything in relation to it which is likely to affect the result of the testing required under this regulation.

(5) The person in charge of an approved laboratory shall-

(a) maintain a record of the herds from which milk is sent for testing under paragraph (1) above;

(b) notify the Scottish Ministers forthwith if, in any month, a sample is not received from one of the herds listed in the records held under sub paragraph (a)

above;

- (c) notify the Scottish Ministers within 24 hours where a sample has been tested for evidence of the existence of brucellosis and the result is positive;**
- (d) notify the Scottish Ministers within one month where a sample has been tested for evidence of the existence of brucellosis and the result is negative; and**
- (e) maintain a record of the results of all the tests carried out for evidence of the existence of brucellosis for a period of one year from the date of the test.**

(6) If any person fails to take any action required under the provisions of paragraph (1) above, a veterinary inspector may, without prejudice to any proceedings for an offence arising out of such default, take or cause to be taken such action, and any expenses reasonably incurred in so doing shall be recoverable by the Scottish Ministers from the person in default.

Testing of bovine animals or steers for brucellosis

8. - (1) The owner or person in charge of bovine animals or steers kept on any premises shall comply with a request by a veterinary inspector for facilities to examine, test or diagnose any bovine animal for brucellosis, and in particular, shall arrange for the collection, penning and securing of any such animal.

(2) If any person fails to comply with a reasonable request by a veterinary inspector in accordance with paragraph (1) above, the Scottish Ministers may, without prejudice to any proceedings for an offence arising out of such default, take or cause to be taken all such reasonable steps as may facilitate the examination, testing and diagnosis of bovine animals for brucellosis, and the expenses reasonably incurred by the Scottish Ministers, shall be recoverable from the person in default.

(3) Where the owner or person in charge of bovine animals or steers kept on any premises arranges or permits any diagnostic test for brucellosis to be carried out on those animals, otherwise than on behalf of the Scottish Ministers, that person shall notify the Scottish Ministers of-

- (a) any positive test result within 24 hours; and**
- (b) any negative test result within one month.**

(4) The owner or person in charge of bovine animals or steers kept on any premises shall not do or cause to be done, anything which is likely to affect the result of a diagnostic test for brucellosis carried out on behalf of the Scottish Ministers.

Marking of bovine animals

9. - (1) The owner or person in charge of bovine animals or steers kept on any premises shall if so required by a veterinary inspector, mark those animals in a manner specified by the veterinary inspector.

(2) A veterinary inspector may paint, stamp, clip or otherwise mark bovine animals or steers kept on any premises.

(3) No person shall alter, remove, obliterate or deface or attempt to alter, remove, obliterate or deface any such mark.

Notification of abortion or premature calving

10. - (1) Where the owner or person in charge of bovine animals kept on any premises

reasonably believes that an abortion or premature calving has occurred, that person shall within 24 hours-

(a) give notice of that fact to a veterinary inspector; and

(b) arrange for the isolation so far as practicable of the animal concerned and its foetus or calf and placenta from all other bovine animals in that person's ownership or charge.

(2) An animal to which the provisions of paragraph (1) above apply shall remain in isolation and its foetus or calf and placenta shall be retained by the owner or person in charge of the animal, until such time as a veterinary inspector serves a notice requiring the disposal or destruction of the foetus or calf and placenta.

(3) If any person on whom a notice under paragraph (2) above is served fails to comply with it, the Scottish Ministers may, without prejudice to any proceedings for an offence arising out of such default, carry out or cause to be carried out the requirements of the notice and the expenses reasonably incurred by the Scottish Ministers shall be recoverable by them from the person in default.

Precautions against the spread of infection

11. - (1) Where a veterinary inspector has certified that any bovine animal kept on any premises has reacted to a diagnostic test for brucellosis, the occupier of the premises shall, on being given notice of the certification, take all reasonable steps to prevent the infection of bovine animals kept on adjoining premises by contact with bovine animals kept on that occupier's premises.

(2) Where a veterinary inspector has certified that any bovine animal kept on any premises has reacted to a diagnostic test for brucellosis or the veterinary inspector reasonably believes it is infected with that disease the veterinary inspector may serve a notice on the owner or occupier of the premises requiring that person to ensure that milk from such animals is not fed to other animals on the same or any other premises unless it has been pasteurised, sterilised or ultra heat treated.

(3) Where a veterinary inspector reasonably believes that any bovine animal kept or formerly kept on any premises is infected with brucellosis, or has been exposed to the risk of infection by that disease, a veterinary inspector may serve a notice on the owner or person in charge of that animal requiring that person to-

(a) arrange for the isolation of any animal or animals which may be specified in the notice on any part or parts of the premises so specified;

(b) ensure that any part or parts of the premises specified in the notice shall not be used by any animals on the premises, or by such animals as may be specified;

(c) cleanse and disinfect at that person's own expense such part or parts of the premises as may be specified in the notice, or any vehicle, plant or equipment before it leaves the premises;

(d) treat and store manure or slurry from any place which has been used by such an animal and to restrict the spreading of manure or the spraying of such slurry in accordance with the requirements of the notice; and

(e) burn, disinfect, bury or destroy any straw, litter or other matter which has, or might have, come into contact with such animal or its foetus or calf and placenta in accordance with the terms specified in the notice.

(4) A notice served in accordance with paragraph (3) above may require any cow or heifer on the premises which is about to calve to be isolated as far as practicable from all other bovine animals on the premises during the period of calving.

(5) Where a veterinary inspector reasonably believes that any bovine animal which is present at, or has been present at any slaughterhouse or other premises used for a show or exhibition, market, sale or fair is infected with brucellosis, the veterinary inspector may serve a notice on the owner or occupier of such slaughterhouse or premises, prescribing the manner in which any manure, slurry or other animal waste, straw, litter or other matter which has come into contact with any such animal, is disposed of.

(6) If any person on whom a notice under this regulation is served fails to comply with it, the veterinary inspector may, without prejudice to any proceedings for an offence arising out of such default, carry out or cause to be carried out the requirements of the notice and the expenses incurred by the veterinary inspector shall be recoverable by the Scottish Ministers from the person in default.

Notification of full term calving in herds affected with brucellosis

12. - (1) Where an animal kept or formerly kept on any premises has reacted to a diagnostic test for brucellosis or where a veterinary inspector reasonably believes that brucellosis exists on any premises, the veterinary inspector may serve a notice on the owner or person in charge of any bovine animal requiring that person to notify the Scottish Ministers within such period as may be specified in the notice, of any full term calving which may occur among such animals.

(2) Where a notice has been served on any person under paragraph (1) above and any full term calving occurs among bovine animals to which such notice relates, the placenta and, if it dies at or after birth, the calf, shall be retained by that person until such time as a veterinary inspector may by a further notice in writing require the disposal or destruction of the placenta and dead calf (if any).

(3) If any person on whom a notice under paragraph (1) above is served fails to comply with it, the Scottish Ministers may, without prejudice to any proceedings for an offence arising out of such default, carry out or cause to be carried out the requirements of the notice and the expenses reasonably incurred by the Scottish Ministers shall be recoverable by them from the person in default.

Animal waste

13. Where a notice has been served on the owner or occupier of any premises under the provisions of regulation 5 above, no manure, slurry or other animal waste shall be removed from the premises except under authority of a licence issued by a veterinary inspector.

Restrictions on the use of semen

14. Where a veterinary inspector reasonably believes that a bovine animal kept on any premises is or may be infected with brucellosis, the veterinary inspector may serve a notice on the owner or occupier of such premises, prohibiting the use of semen from such an animal, or restricting its use.

Shows, exhibitions and markets

15. - (1) Where a veterinary inspector believes that any bovine animal on any premises at which a show, exhibition, market, sale or fair is being held, is infected with, or has been exposed to the risk of infection with brucellosis, the veterinary inspector may require the animal to be removed from those premises and the owner or person in charge of such animals may choose to take them-

- (a) to a slaughterhouse for immediate slaughter;**
- (b) back to the premises from which the animal was brought to the show, exhibition, market, sale or fair; or**
- (c) to such other premises as the veterinary inspector may direct.**

(2) A bovine animal shall only be removed in accordance with the provisions of sub paragraphs (b) and (c) of paragraph (1) above on condition that it is immediately put into isolation for a period to be terminated by a notice served by a veterinary inspector on the owner or person in charge of the animal.

Control of premises used by dealers for the keeping of bovine animals

16. No person shall use premises for the keeping of bovine animals for or in connection with that person's business as a dealer in bovine animals unless that person has notified the Scottish Ministers in writing that the premises are so used.

Control of infection from other animals

17. Where a veterinary inspector reasonably believes that a bovine animal kept on any premises is, or may be infected with brucellosis, a notice may be served on the occupier or person in charge of such premises, requiring that person to keep it under control in such manner or confined to such part of the premises as may be specified in the notice.

Slaughter of bovine animals affected with brucellosis

18. - (1) The Scottish Ministers may, if they think fit, cause to be slaughtered any bovine animal which-

- (a) is affected or is suspected of being affected with brucellosis; or**
- (b) has been exposed to the infection of brucellosis.**

(2) The Scottish Ministers may pay for bovine animals slaughtered under this regulation such compensation as they think fit.

Notice of intended slaughter

19. - (1) Where Scottish Ministers propose to cause bovine animals to be slaughtered under regulation 18 above, a veterinary inspector shall serve a notice of intended slaughter on the owner or person in charge of the animal informing that person of the proposed slaughter and requiring the animal to be detained pending slaughter and to be isolated as far as practicable from such other animals as may be specified.

(2) The person on whom such a notice has been served shall ensure that the animal is not moved, or caused or permitted to be moved except under the authority of a licence issued by a veterinary inspector.

Assistance in securing animals

20. - (1) Where the Scottish Ministers propose to cause a bovine animal to be slaughtered under regulation 18 above, the owner or person in charge of the animal shall comply with all reasonable requirements of a veterinary inspector for assistance in the collection, penning, and securing of the animal of identification and inspection in connection with the ascertainment of its value.

(2) If the owner or person in charge of a bovine animal fails to comply with a

reasonable requirement for assistance made under paragraph (1) above, the Scottish Ministers may, without prejudice to any proceedings for an offence arising out of such default, carry out or cause to be carried out such requirements and the expenses reasonably incurred by the Scottish Ministers shall be recoverable by them from the person in default.

Production of licences

21. Where, under the provisions of these Regulations, a licence is required for the movement of a bovine animal or steer, the owner or person in charge of such an animal, shall on demand made under these Regulations by a veterinary inspector, an inspector or a police constable, furnish his name and address and shall produce the licence and allow a copy thereof or an extract therefrom to be taken.

Powers of veterinary inspectors and inspectors

22. - (1) For the purpose of these Regulations, a veterinary inspector or an inspector shall, on producing if so required, some duly authenticated document showing the veterinary inspector's or the inspector's authority, have a right at all reasonable times to enter any premises, other than any part of any premises occupied as a private dwelling.

(2) A veterinary inspector may-

- (a)** inspect and examine any bovine animal or any carcase on the premises;
- (b)** make such tests in relation to and take such examples from any bovine animal or carcase on the premises as may be required for the purpose of diagnosis;
- (c)** examine any records in whatever form on the premises and take copies of those records; or
- (d)** take with him such other person as may be considered necessary for any purpose in relation to these Regulations.

(3) An inspector may-

- (a)** inspect any bovine animal or any carcase on the premises;
- (b)** examine any records in whatever form on the premises and take copies of those records; or
- (c)** take with him such other person as may be considered necessary for any purpose in relation to the enforcement of these Regulations.

Offences

23. - (1) Any person who-

- (a)** contravenes, or fails to comply with-
 - (i)** any provision of these Regulations with the exception of regulation 7(5);
 - (ii)** any notice or requirement contained in a notice; or

(b) fails without reasonable excuse to comply with regulation 7(5) or with any requirement imposed by a veterinary inspector or inspector in exercise of any powers under these Regulations or obstructs any veterinary inspector or inspector in the exercise of these powers,

shall be guilty of an offence.

(2) A person found guilty of an offence under paragraph (1) above shall be liable on summary conviction to a fine not exceeding the statutory maximum.

(3) Paragraph (1) of this regulation shall not apply to anything done or omitted by a veterinary inspector or an inspector under these Regulations.

Enforcement

24. - (1) Subject to paragraph (2) below, these Regulations shall be enforced by the local authority in its geographical area.

(2) The Scottish Ministers may direct, in relation to a particular case or a particular class of case, that the duty imposed on a local authority by paragraph (1) shall be discharged by the Scottish Ministers and not by the local authority.

Revocation

25. The Brucellosis Order 1997[5] is hereby revoked.

ROSS FINNIE

A member of the Scottish Executive

**St Andrew's House, Edinburgh
12th October 2000**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and substantially re enact the Brucellosis Order 1997 (S.I. 1997/758) in relation to Scotland.

These Regulations implement the provisions relating to milk in Council Directive 64/432/EEC as amended (on animal health problems affecting intra Community trade in bovine animals and swine) (O.J. No. L 121, 29.7.64, p.1977) and Council Directive 77/391/EEC as amended (introducing Community measures for the eradication of brucellosis, tuberculosis and leucosis in cattle) (O.J. No. L 145, 13.6.77, p.44). These Directives require the operation of a monitoring and testing programme to maintain the officially brucellosis free status of Great Britain under Council Directive 64/432/EEC.

Regulations 4, 5 and 6 deal with restrictions on vaccination and treatment of diseased animals as well as controls on movement of diseased animals.

The principal changes made by these Regulations relate to the arrangements for testing milk for evidence of brucellosis and the removal of the list of approved laboratories. Regulation 7(1) sets out the duties of those who buy milk in Scotland for resale to ensure that milk is sent for testing to an approved laboratory.

The person in charge of an approved laboratory must notify the Scottish Ministers if the result of any test for brucellosis is positive within 24 hours and if the result is negative within one month. That person must maintain records of all the tests carried out for a period of one year (regulation 7(5)).

Veterinary inspectors can require testing of animals for brucellosis (regulation 8). Owners of bovine animals are required to notify abortions or premature calving (regulation 10). Regulations 11 to 17 provide for measures to control the spread of any brucellosis infection. Diseased animals can be slaughtered at the request of the Scottish Ministers (regulations 18 to 21).

Regulation 22 gives powers to veterinary inspectors and inspectors. Regulation 23 sets out offences and penalties. The maximum penalty for an offence under the Regulations is the statutory maximum (currently £5000).

The Regulations are enforced by the local authority (regulation 24). The Scottish Ministers have the power to direct in particular cases that they shall enforce the Regulations.

A Regulatory Impact Assessment in relation to these Regulations has not been prepared as the Regulations place no new burdens on those affected by them.

Notes:

[1] 1972 (c.68). Section 2(2) was amended by the Scotland Act 1998 (c.46), Schedule 8, paragraph 15(3). The functions conferred on the Minister of the Crown under section 2(2) of the European Communities Act 1972, insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1988.back

[2] 1994 c.39.back

[3] 1966 c.36.back

[4] S.I. 1977/944.back

[5] 1997 S.I. No. 758.back

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