

**2007 No. 420**

**ANIMALS**

**ANIMAL HEALTH**

**The Zoonoses (Monitoring) (Scotland) Regulations 2007**

<i>Made</i> - - - -	<i>6th September 2007</i>
<i>Laid before the Scottish Parliament</i>	<i>7th September 2007</i>
<i>Coming into force</i> - -	<i>1st October 2007</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a) and all other powers enabling them to do so.

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Zoonoses (Monitoring) (Scotland) Regulations 2007 and comes into force on 1st October 2007.

(2) These Regulations extend to Scotland only.

**Interpretation**

2.—(1) In these Regulations—

“the Directive” means Directive 2003/99/EC of the European Parliament and of the Council on the monitoring of zoonoses and zoonotic agents, amending Council Decision 90/424/EEC and repealing Council Directive 92/117/EEC(b);

“inspector” means a person appointed to be an inspector for the purposes of these Regulations by the Scottish Ministers or a local authority; and

“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(c).

(2) Expressions used in these Regulations and the Directive have the same meaning in these Regulations as they have for the purposes of the Directive.

**Competent authority**

3. The Scottish Ministers are the competent authority for the purposes of the Directive.

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(a) 1972 c.68. Section 2(2) was amended by the Scotland Act 1998 (c.46), Schedule 8, paragraph 15(3) and section 27 of the Legislative and Regulatory Reform Act 2006 (c.51). The functions conferred upon the Minister of the Crown under section 2(2) of the 1972 Act, insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.

(b) O.J. No. L 325, 12.12.2003, p.31.

(c) 1994 c.39.

## **Power of entry**

4.—(1) An inspector may, on producing, if required to do so, some duly authenticated document showing the authority of that inspector, enter at all reasonable hours any premises on which any animal, body of an animal, part of the body of an animal or animal feedingstuff is, or has been, present for the purpose of—

- (a) determining whether any zoonosis listed in the Schedule to these Regulations or any zoonotic agent of any such zoonosis exists or has existed there;
- (b) determining whether there is evidence of antimicrobial resistance in any such zoonotic agent or in any other agent that presents a threat to public health;
- (c) determining, if the epidemiological situation so requires, whether—
  - (i) any other zoonosis or zoonotic agent exists or has existed there;
  - (ii) there is evidence of antimicrobial resistance in any such zoonotic agent;
  - (iii) any agent of any infection that exists or has existed on those premises is transmissible directly or indirectly from animals to humans; or
  - (iv) any agent of any infection that is, or may be, transmissible directly from animals to humans exists on those premises; or
- (d) the enforcement of these Regulations.

(2) Paragraph (1) does not apply to admission to any premises used only as a private dwelling-house unless 24 hours' notice of the intended entry has been given to the occupier, or the entry is in accordance with a warrant granted under this regulation.

(3) If a sheriff or justice of the peace, on sworn information in writing, is satisfied that there are reasonable grounds for entry into any premises for the purposes of the enforcement of these Regulations and—

- (a) admission has been refused or a refusal is expected and (in either case) notice of intention to apply for a warrant has been given to the occupier;
- (b) asking for admission to the premises or giving notice of intention to apply for a warrant would defeat the object of the entry;
- (c) the case is one of urgency; or
- (d) the premises are unoccupied or the occupier is temporarily absent,

the sheriff or justice of the peace may issue a warrant in writing authorising the inspector to enter the premises, if necessary by reasonable force.

(4) A warrant issued under this regulation shall continue in force for one month.

(5) An inspector who enters unoccupied premises must leave them as effectively secured against unauthorised entry as that inspector found them.

(6) In this regulation “premises” includes any land or building or any other place, in particular a vehicle or vessel or a tent or moveable structure.

## **Powers of inspectors**

5. An inspector entering premises under regulation 4 may—

- (a) carry out such inquiries, examinations and tests and take such samples (including any animal carcase, part of an animal carcase, blood, faecal material, feedingstuff, litter or animal products) as the inspector considers necessary;
- (b) examine any records in whatever form they are held and take copies or print-outs of those records;
- (c) mark, or cause to be marked, for identification purposes, any animal or thing in relation to which any of the powers under paragraphs (a) or (b) have been exercised;
- (d) make inquiries of any person;

- (e) place on the premises any equipment (including any trap) for the purpose of capturing or monitoring any wild animal (including any arthropod vector) or for detecting any micro-organism; and
- (f) be accompanied by–
  - (i) any representative of the European Commission; or
  - (ii) any other person or any vehicle or equipment that the inspector considers necessary for the execution of these Regulations.

### **Examination of isolates**

6.—(1) A food business operator responsible for primary production who examines an isolate, or causes an examination of an isolate to be carried out, in order to detect the presence of any zoonosis or zoonotic agent must–

- (a) take all reasonable steps to ensure that the isolate is preserved for a period of 2 weeks from the date of the examination; and
- (b) keep the results of the examination for a period of 12 months from receipt and supply them to the Scottish Ministers upon demand.

(2) Paragraph (1) does not apply to any sample taken for the purposes of the Poultry Breeding Flocks and Hatcheries (Scotland) Order 2007(a).

### **Monitoring wild animals**

7. If the Scottish Ministers prepare a programme for the purposes of the Directive for the monitoring of zoonoses or zoonotic agents in wild animals that includes the taking of–

- (a) any sample from a live wild animal; or
- (b) any egg or sample from the temporary or permanent resting place or nest of a wild animal,

they must consult Scottish Natural Heritage before monitoring commences.

### **Offences and penalties**

8.—(1) A person commits an offence if that person–

- (a) administers any treatment to an animal with the intention of disguising any zoonosis or zoonotic agent;
- (b) defaces, obliterates or removes any mark applied under regulation 5(c) without the authority of an inspector;
- (c) removes or intentionally damages any equipment placed on premises by an inspector under regulation 5(e);
- (d) fails to comply with regulation 6(1);
- (e) intentionally obstructs any person acting in the execution of these Regulations;
- (f) gives false or misleading information to any person acting in the execution of these Regulations;
- (g) fails, without reasonable excuse, to comply with the requirement of a person acting in the execution of these Regulations to–
  - (i) give any assistance or information; or
  - (ii) produce any record.

(2) It is a defence for a person charged with an offence under this regulation to prove that that person took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

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(a) S.S.I. 2007/254.

(3) A person guilty of an offence under these Regulations is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

### **Offences by bodies corporate**

**9.**—(1) Where a body corporate is guilty of an offence under these Regulations, and that offence is shown to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of—

- (a) any director, manager, secretary or other similar officer of the body corporate; or
- (b) any person who was purporting to act in any such capacity,

that person as well as the body corporate shall be guilty of an offence and be liable to be proceeded against and punished accordingly.

(2) If the affairs of a body corporate are managed by its members, the provisions of paragraph (1) shall apply in relation to the acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body corporate.

(3) For the purposes of paragraph (1), "director" in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate and "body corporate" includes a partnership in Scotland, and in relation to such a partnership, a reference to a director or other officer of a body corporate is a reference to a partner.

### **Enforcement**

**10.**—(1) Subject to paragraph (2), these Regulations shall be enforced by the local authority.

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

St Andrew's House,  
Edinburgh  
6th September 2007

*RICHARD LOCHHEAD*  
A member of the Scottish Executive

## SCHEDULE

Regulation 4(1)(a)

### Zoonoses

brucellosis

campylobacteriosis

echinococcosis

listeriosis

salmonellosis

trichinellosis

tuberculosis due to *Mycobacterium bovis*

verotoxigenic *Escherichia coli*

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations make provision in Scotland for the administration and enforcement of Directive 2003/99/EC of the European Parliament and of the Council on the monitoring of zoonoses and zoonotic agents, amending Council Decision 90/424/EEC and repealing Council Directive 92/117/EEC.

Regulation 4 provides inspectors with powers of entry for the purpose of monitoring for specified zoonoses (diseases which are transmissible between animals and humans), zoonotic agents and antimicrobial resistance to zoonotic agents. It also provides powers of entry to monitor for other zoonoses, zoonotic agents or any agent of an infection which may be transmissible between animals and humans, if the epidemiological situation so requires.

Regulation 5 sets out what inspectors may do after entering premises, and includes the right to take samples, examine records and make inquiries of any person.

Regulation 6 requires food business operators involved in primary production to preserve isolates that have been tested for a zoonosis and to keep the results of those tests and provide them to the Scottish Ministers on demand.

Regulation 7 provides that Scottish Natural Heritage must be consulted in certain circumstances before the commencement of a programme for monitoring of zoonoses in wild animals.

Regulation 8 creates offences and sets out the applicable penalty.

Regulation 9 relates to offences by corporate bodies.

Regulation 10 provides for enforcement by the local authority or by the Scottish Ministers where the Scottish Ministers so direct.

A Regulatory Impact Assessment and Transposition Note has been prepared and placed in the Scottish Parliament Information Centre. Copies may be obtained from the Scottish Executive Environment and Rural Affairs Department, Pentland House, 47 Robb's Loan, Edinburgh EH14 1TY.



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