

2009 No. 229

ANIMALS

ANIMAL HEALTH

The Control of Salmonella in Poultry (Breeding, Laying and Broiler Flocks) (Scotland) Order 2009

<i>Made</i> - - - -	<i>3rd June 2009</i>
<i>Laid before the Scottish Parliament</i>	<i>4th June 2009</i>
<i>Coming into force</i> - -	<i>26th June 2009</i>

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 1, 8(1) and 87(5) of the Animal Health Act 1981(a) and section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972(b), and all other powers enabling them to do so.

This Order makes provision for a purpose mentioned in section 2(2) of the European Communities Act 1972, and it appears to the Scottish Ministers that it is expedient for the references in article 2 to a Community instrument to be a reference to that instrument as amended from time to time.

Citation, commencement and extent

1.—(1) This Order may be cited as the Control of Salmonella in Poultry (Breeding, Laying and Broiler Flocks) (Scotland) Order 2009 and comes into force on 26th June 2009.

(2) This Order extends to Scotland only.

Interpretation

2. In this Order—

“breeding flock” means a flock kept for the production of eggs intended for incubation;

“broiler flock” means a flock kept for the production of meat intended for human consumption;

“chick” means a bird less than 72 hours old that has not been fed;

(a) 1981 c.22. Section 8 was amended by paragraph 1 of Schedule 2 to the Animal Health and Welfare (Scotland) Act 2006 (asp 11). The functions conferred under the 1981 Act on “the Ministers” (as defined in section 86 of that Act) are now exercisable by the Scottish Ministers. They were transferred, so far as within devolved competence, by virtue of section 53 of the Scotland Act 1998 (c.46) (“the 1998 Act”).

(b) 1972 c.68 (“the 1972 Act”). Section 2(2) was amended by paragraph 15(3) of Schedule 8 to the 1998 Act, and section 27(1) of the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”). Paragraph 1A of Schedule 2 was inserted by section 28 of the 2006 Act. The powers in section 2(2) are exercised as regards articles 2 and 3. The functions conferred upon the Minister of the Crown under section 2(2) of the 1972 Act, so far as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act.

“Commission Regulation (EC) No. 1003/2005” means Commission Regulation (EC) No. 1003/2005 implementing Regulation (EC) No. 2160/2003 as regards a Community target for the reduction of the prevalence of certain salmonella serotypes in breeding flocks of *Gallus gallus* and amending Regulation (EC) No. 2160/2003(a), as amended from time to time;

“Commission Regulation (EC) No. 1168/2006” means Commission Regulation (EC) No. 1168/2006 implementing Regulation (EC) No. 2160/2003 as regards a Community target for the reduction of the prevalence of certain salmonella serotypes in laying hens of *Gallus gallus* and amending Regulation (EC) No. 1003/2005(b), as amended from time to time;

“Commission Regulation (EC) No. 1177/2006” means Commission Regulation (EC) No. 1177/2006 implementing Regulation (EC) No. 2160/2003 of the European Parliament and of the Council as regards requirements for the use of specific control methods in the framework of the national programmes for the control of salmonella in poultry(c), as amended from time to time;

“Commission Regulation (EC) No. 646/2007” means Commission Regulation (EC) No. 646/2007 implementing Regulation (EC) No. 2160/2003 of the European Parliament and of the Council as regards a Community target for the reduction of the prevalence of *Salmonella enteritidis* and *Salmonella typhimurium* in broilers and repealing Regulation (EC) No. 1091/2005(d), as amended from time to time;

“hatchery” means any premises, with a total incubator capacity of not less than 1000 eggs, on which the eggs of poultry are incubated or hatched and from which chicks are sold or supplied;

“flock” means all poultry of the same health status kept on the same holding or in the same enclosure and constituting a single epidemiological unit and, in the case of housed poultry, includes all birds sharing the same airspace;

“holding” means any holding on which one or more flocks are kept or are intended to be kept;

“laying flock” means a flock of poultry kept for the production of eggs intended for human consumption;

“occupier” means, in relation to any hatchery or holding, the person in charge of the hatchery or holding;

“poultry” means domestic fowl of the species *Gallus gallus*; and

“Regulation (EC) No. 2160/2003” means Regulation (EC) No. 2160/2003 of the European Parliament and of the Council on the control of salmonella and other specified food-borne zoonotic agents(e), as amended from time to time.

Competent authority

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

- (a) Regulation (EC) No. 2160/2003;
- (b) Commission Regulation (EC) No. 1003/2005;
- (c) Commission Regulation (EC) No. 1168/2006;
- (d) Commission Regulation (EC) No. 1177/2006; and
- (e) Commission Regulation (EC) No. 646/2007.

(a) O.J. No. L 170, 1.7.2005, p.12; as amended by Commission Regulation (EC) No. 213/2009 (O.J. No. L 73, 19.3.2009, p.5). This Regulation extends to the EEA through Decision of the EEA Joint Committee No. 101/2006 amending Annex I (Veterinary and phytosanitary matters) to the EEA Agreement (O.J. No. L 333, 30.11.2006, p.6).

(b) O.J. No. L 211, 1.8.2006, p.4.

(c) O.J. No. L 212, 2.8.2006, p.3.

(d) O.J. No. L 151, 13.6.2007, p.21 as amended by Commission Regulation (EC) No. 584/2008 (O.J. No. L 162, 21.6.2008, p.3).

(e) O.J. No. L 325, 12.12.2003, p.1. This Regulation has been amended by the Community instruments referred to in article 3(b) and (c) of this Order, and by Commission Regulation (EC) No. 1237/2007 (O.J. L 280, 24.10.2007, p.5). It is prospectively amended by Commission Regulation (EC) No. 1237/2007.

Notification of poultry hatcheries

4.—(1) The occupier of a poultry hatchery with a total incubator capacity of 1000 eggs or more must notify the Scottish Ministers of the information in paragraph (4)—

- (a) within 3 months of the coming into force of this Order; or
- (b) in the case of such a hatchery established after the date this Order comes into force, within 3 months of the establishment of the hatchery.

(2) The occupier must notify the Scottish Ministers of any change or addition to that information within 3 months of the change or addition.

(3) This article does not apply to any occupier who has notified the Scottish Ministers of that information under any other enactment.

(4) The information to be notified is—

- (a) the name, address and telephone number of the occupier;
- (b) the address and telephone number of the hatchery; and
- (c) the incubator capacity of the hatchery.

Records in a hatchery

5. Where eggs or chicks are moved into or out of a hatchery the occupier must record—

- (a) the date of the movement;
- (b) the number of eggs or chicks moved;
- (c) whether the movement is into or out of the hatchery;
- (d) if the movement is out of the hatchery, the holding of destination; and
- (e) in the case of eggs brought into the hatchery for incubation, the holding of origin.

Notification of breeding or laying flocks

6.—(1) The occupier of a holding on which one or more breeding flocks or laying flocks of at least 250 poultry are kept must notify the Scottish Ministers of the information in paragraph (4)—

- (a) within 3 months of the coming into force of this Order; or
- (b) in the case of such a holding established after the date this Order comes into force, within 3 months of the establishment of the holding.

(2) The occupier must notify the Scottish Ministers of any change or addition to that information within 3 months of the change or addition.

(3) This article does not apply to any occupier who has notified the Scottish Ministers of that information under any other enactment.

(4) The information to be notified is—

- (a) the name, address and telephone number of the holding;
- (b) the name, address and telephone number of the occupier and of the person who owns each flock on the holding;
- (c) the number of flocks on the holding;
- (d) for each flock—
 - (i) the identification of the flock;
 - (ii) whether it is a breeding flock or a laying flock; and
 - (iii) the number of poultry; and
- (e) for each breeding flock—
 - (i) whether the flock is a flock of layer breeders or meat breeders; and
 - (ii) the status in the breeding pyramid of the flock.

(5) In this article—

“layer breeder” means poultry kept for the production of eggs intended for incubation and hatching of chicks—

- (a) that will be grown to produce eggs for human consumption; or
- (b) whose progeny will be grown to produce eggs for human consumption; and

“meat breeder” means poultry kept for the production of eggs intended for the incubation and hatching of chicks—

- (a) that will be grown to produce meat for human consumption; or
- (b) whose progeny will be grown to produce meat for human consumption.

Notification of broiler flocks

7.—(1) The occupier of a holding on which one or more broiler flocks are kept must notify the Scottish Ministers of the information in paragraph (4)—

- (a) within 3 months of the coming into force of this Order; or
- (b) in the case of such a holding established after the date this Order comes into force, within 3 months of the establishment of the holding.

(2) The occupier must notify the Scottish Ministers of any change or addition to that information within 3 months of the change or addition.

(3) This article does not apply to any occupier who has notified the Scottish Ministers of that information under any other enactment.

(4) The information to be notified is—

- (a) the name, address and telephone number of the holding;
- (b) the name, address and telephone number of the occupier and of the person who owns each flock on the holding;
- (c) the number of broiler flocks on the holding; and
- (d) for each broiler flock—
 - (i) the identification of the flock, where there is more than one flock on the holding; and
 - (ii) the number of poultry.

(5) The occupier must notify the Scottish Ministers of the expected date of arrival at the holding of every broiler flock at least 2 weeks before that date.

Sampling

8.—(1) The occupier must carry out sampling for breeding flocks in accordance with the Annex to Commission Regulation (EC) No. 1003/2005.

(2) The occupier must carry out sampling for laying flocks in accordance with the Annex to Commission Regulation (EC) No. 1168/2006.

(3) The occupier must carry out sampling for broiler flocks in accordance with the Annex to Commission Regulation (EC) No. 646/2007.

Submission of samples to an approved laboratory

9.—(1) The occupier must, on the day a sample is taken in accordance with Commission Regulation (EC) No. 1003/2005, Commission Regulation (EC) No. 1168/2006 or Commission Regulation (EC) No. 646/2007, dispatch it by first class post or courier to a laboratory approved by the Scottish Ministers for the purpose of testing for the presence of salmonella.

(2) In relation to each sample the occupier must provide the following information—

- (a) the name of the occupier;
- (b) the address of the holding;

- (c) the type of samples;
- (d) the date on which the samples were taken;
- (e) the identification of the flock, where there is more than one flock on the holding;
- (f) the date on which the flock moved onto the holding; and
- (g) the age of the flock.

Records of samples

- 10.**—(1) The occupier must, as soon as is reasonably practicable after taking a sample, record—
- (a) the type of sample taken;
 - (b) the date on which the sample was taken;
 - (c) where there is more than one broiler flock on the holding, the identification of the flock from which the sample was taken; and
 - (d) the laboratory to which the sample was sent.
- (2) The occupier must record the result of each test when it is received from the laboratory.

Records of movements

- 11.** When poultry from a broiler flock are moved on to or off a holding the occupier must record—
- (a) the date of the movement;
 - (b) whether the movement was on to or off the holding;
 - (c) the number of birds moved;
 - (d) the age of the birds moved;
 - (e) in the case of the movement of an entire flock, the identification of that flock, where there is more than one flock on the holding;
 - (f) the identity of the building or group of buildings in to or from which the birds were moved; and
 - (g) the address of the holding that they came from or were sent to.

Duties of the person in charge of a laboratory

- 12.**—(1) The person in charge of a laboratory who receives samples must ensure that samples are refrigerated immediately and that the examination begins within 48 hours of receipt.
- (2) The samples must be tested in accordance with paragraph 3 of the Annex to Regulation (EC) No. 646/2007.

Prohibition on the use of antimicrobials

13. No person may administer any antimicrobial to any bird of the species *Gallus gallus* as a specific method to control salmonella in breach of Article 2 of Commission Regulation (EC) No. 1177/2006 (use of antimicrobials).

Prohibition on the use of vaccines

14. No person may administer any live salmonella vaccine to any bird of the species *Gallus gallus* in breach of Article 3(1) of Commission Regulation (EC) No. 1177/2006 (use of vaccines).

Records

15. Any person required to keep a record under this Order must keep it for 2 years from the date it is made and must produce it on demand to an inspector or officer of the Scottish Ministers and allow a copy of it to be made or an extract from it to be taken.

Tampering with samples

16. A person must not tamper with a sample or do anything to it that is likely to affect the result of any test required to be carried out under this Order.

Powers of the Scottish Ministers in cases of default

17. If any person fails to take any action required by this Order, an inspector may arrange for such action to be taken at the expense of the person in default.

Enforcement

18.—(1) This Order is enforced by the local authority.

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

Revocation

19. The Control of Salmonella in Poultry (Scotland) Order 2008(a) is revoked.

St Andrew's House,
Edinburgh
3rd June 2009

RICHARD LOCHHEAD
A member of the Scottish Executive

(a) S.S.I. 2008/266.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order enforces Council Regulation (EC) No. 2160/2003 (O.J. No. L 325, 12.12.2003, p.1), Commission Regulation (EC) No. 1003/2005 (O.J. No. L 170, 1.7.2005, p.12), Commission Regulation (EC) No. 1168/2006 (O.J. No. L 211, 1.8.2006, p.4), Commission Regulation (EC) No. 1177/2006 (O.J. No. L 212, 2.8.2006, p.3) and Commission Regulation (EC) No. 646/2007 (O.J. No. L 151, 13.6.2007, p.21). References to the Commission Regulations are to them as they are amended from time to time. Amendments and the exercise of derogations will be notified to interested parties by post or email and by publishing appropriate information on the Scottish Government website.

The Order also revokes and remakes the Control of Salmonella in Poultry (Scotland) Order 2008 to extend the sampling provision to broiler flocks (the earlier Order was confined to laying and breeding flocks) of birds of the species *Gallus gallus*.

It makes provision for the registration of hatcheries, broiler flocks, breeding flocks and laying flocks of birds of the species *Gallus gallus* and imposes record-keeping requirements.

It makes provision for monitoring and testing breeding, laying and broiler flocks of birds of the species *Gallus gallus*.

It prohibits the use of antimicrobials and live salmonella vaccines.

The Order is enforced by the local authority, or by the Scottish Ministers if they so direct.

Breach of the Order is an offence under section 73 of the Animal Health Act 1981 (c.22), punishable in accordance with section 75 of that Act.

A full impact assessment of the effect that this instrument will have on the costs of business has been prepared. A copy has been placed in the Scottish Parliament Reference Centre. Copies can be obtained from the offices of the Scottish Government Rural Directorate at Pentland House, 47 Robb's Loan, Edinburgh EH14 1TY.

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