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SCOTTISH STATUTORY INSTRUMENTS

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**2011 No. 412**

**ANIMALS**

**ANIMAL HEALTH**

**The Cattle Identification (Scotland)  
Amendment Regulations 2011**

Made	-	-	-	-	22nd November 2011
Laid before the Scottish Parliament	-	-	-	-	24th November 2011
Coming into force	-	-			31st December 2011

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972<sup>(1)</sup> and all other powers enabling them to do so.

**Citation and commencement**

1. These Regulations may be cited as the Cattle Identification (Scotland) Amendment Regulations 2011 and come into force on 31st December 2011.

**Amendment to the Cattle Identification (Scotland) Regulations 2007**

2.—(1) The Cattle Identification (Scotland) Regulations 2007<sup>(2)</sup> are amended as follows.

(2) In regulation 2 (interpretation), in the definition of “[Commission Regulation \(EC\) No. 494/98](#)”, after “animals”, insert “as amended by Commission Regulation (EU) No. 1053/2010 amending Regulation [\(EC\) No. 494/98](#) as regards administrative sanctions in cases of failure to prove the identification of an animal<sup>(3)</sup>”.

(3) After regulation 10 (powers of inspectors), insert—

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(1) [1972 c.68](#). Section 2(2) was amended by the Scotland Act [1998 \(c.46\)](#) (“the 1998 Act”), Schedule 8, paragraph 15(3) (which was amended by the Legislative and Regulatory Reform Act [2006 \(c.51\)](#) (“the 2006 Act”)), section 27(4). Section 2(2) was also amended by the 2006 Act, section 27(1)(a) and by the European Union (Amendment) Act [2008 \(c.7\)](#), section 3(3) and Schedule, Part 1. The functions conferred upon the Minister of the Crown under section 2(2), insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act.

(2) S.S.I. 2007/174, amended by S.S.I. 2007/312 and [S.I. 2011/1043](#).

(3) OJ L 303, 19.11.2010, p.1.

### “Warrant

**10A.**—(1) If a sheriff or justice of the peace, on sworn information in writing, is satisfied that there is reasonable ground for entry into any premises by an inspector under regulation 10 and either that—

- (a) entry has been refused or a refusal is reasonably expected, and the inspector has given notice to the occupier of his or her intention to apply for an entry warrant; or
- (b) a request for entry, or the giving of such a notice, would defeat the object of entry, or entry is urgently required, or the premises are unoccupied, or the occupier is temporarily absent, and it would defeat the object of entry to await the occupier’s return,

the sheriff or justice may by signed warrant, valid for a period of no more than one month, authorise the inspector, together with any person who may accompany the inspector by virtue of regulation 10(2)(j), to enter the premises, if need be by reasonable force.

(2) An inspector leaving any unoccupied premises which that person has entered by virtue of a warrant shall leave them as effectively secured against unauthorised entry as they were found.”.

- (4) For regulation 12 (slaughter of animals without identification), substitute—

### “Slaughter of animals without identification and traceability

**12.**—(1) Where the Scottish Ministers order the destruction of an animal under Article 1(2) of [Commission Regulation \(EC\) No. 494/98](#), they shall serve a notice requiring the keeper to arrange for the animal to be killed and disposed of as specified in the notice.

(2) Failure to comply with a notice served under paragraph (1) is an offence.

(3) If a person on whom a notice is served under paragraph (1) fails to comply with the notice, the Scottish Ministers may cause the animal to be killed and disposed of and the amount of any expenses reasonably incurred by them is recoverable from that person.”.

- (5) In Schedule 2 (notification), for paragraph 3, substitute—

### “Notification of death

**3.**—(1) When an animal is killed in a slaughterhouse, the occupier of the slaughterhouse shall within 7 days of its death—

- (a) notify the Scottish Ministers of its death, in such form and manner as is from time to time approved by them, in accordance with Article 7(1) of Regulation [\(EC\) No. 1760/2000](#); and
- (b) return the cattle passport for that animal to the Scottish Ministers in accordance with Article 6(4) of Regulation [\(EC\) No. 1760/2000](#).

(2) When an animal is killed elsewhere than a slaughterhouse and its body is sent to a slaughterhouse for dressing—

- (a) the keeper at the time the animal is killed shall—
  - (i) enter the details of its death in the cattle passport;
  - (ii) ensure that the cattle passport for that animal accompanies the body of the animal to the slaughterhouse; and
  - (iii) ensure that the body of the animal is delivered to the slaughterhouse within such time as to enable the occupier of the slaughterhouse to comply with head (b); and

- (b) the occupier of the slaughterhouse shall within 7 days of the animal's death—
  - (i) notify the Scottish Ministers of its death, in such form and manner as is from time to time approved by them, in accordance with Article 7(1) of Regulation (EC) No. 1760/2000; and
  - (ii) return the cattle passport for that animal to the Scottish Ministers in accordance with Article 6(4) of Regulation (EC) No. 1760/2000.
- (3) In any other case when an animal dies, the keeper shall within 7 days of its death—
  - (a) notify the Scottish Ministers of its death, in such form and manner as is from time to time approved by them, in accordance with Article 7(1) of Regulation (EC) No. 1760/2000; and
  - (b) either—
    - (i) return the identification document for that animal to the Scottish Ministers in accordance with Article 6(4) of Regulation (EC) No. 1760/2000; or
    - (ii) where no identification document for that animal is available, provide reasons when notifying under head (a) for the non-compliance with head (b)(i).
- (4) Subject to paragraph (5), failure to comply with this paragraph is an offence.
- (5) Failure to comply with sub-head (i) or (ii) of sub-paragraph (2)(b) is not an offence where it is shown that the occupier of the slaughterhouse had reasonable excuse for not complying with that sub-head.”.

### **Saving provision**

**3.** Despite regulation 2(5), paragraph 3 of Schedule 2 to the Cattle Identification (Scotland) Regulations 2007, as it had effect immediately before 31st December 2011, continues to have effect in relation to an animal to which that paragraph applies which died or was killed before that date.

St Andrew's House, Edinburgh  
22nd November 2011

*RICHARD LOCHHEAD*  
A member of the Scottish Executive

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## EXPLANATORY NOTE

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

These Regulations amend the Cattle Identification (Scotland) Regulations 2007 (“the principal Regulations”).

Regulations 2(2) and 2(4) implement Commission Regulation (EU) No. 1053/2010 amending Regulation (EC) No. 494/98 as regards administrative sanctions in cases of failure to prove the identification of an animal (OJ L 303, 19.11.2010, p.1). It provides that, if a keeper of an animal cannot prove its identification and traceability, the Scottish Ministers may, on the basis of an assessment of the animal health and food safety risks, order the destruction of the animal without compensation.

Regulation 2(3) inserts into the principal Regulations a new regulation 10A, that gives inspectors the power to apply to a sheriff or a justice of the peace for a warrant for entry into premises for enforcement purposes.

Regulation 2(5) substitutes paragraph 3 of Schedule 2 to the principal Regulations, concerning notification of death. The new provision provides for a seven day period for reporting the death of an animal and returning its cattle passport or other identification document to the Scottish Ministers and provides methods of reporting on-farm deaths of animals.

Regulation 3 inserts a saving provision.

No business regulatory impact assessment has been prepared for these Regulations as no impact upon businesses, charities or voluntary bodies is foreseen.