

2012 No. 178

ANIMALS

ANIMAL HEALTH

The African Horse Sickness (Scotland) Order 2012

<i>Made</i> - - - -	<i>29th May 2012</i>
<i>Laid before the Scottish Parliament</i>	<i>31st May 2012</i>
<i>Coming into force</i> - -	<i>1st July 2012</i>

CONTENTS

PART 1

Introduction

1. Citation, commencement and extent
2. Interpretation
3. Extension of definitions of “animals” and “disease”
4. Disapplication

PART 2

Notification of suspicion of African horse sickness

5. Notification requirements

PART 3

Suspicion and confirmation of African horse sickness

6. Scope of Part 3
7. Initial controls following notification
8. Imposing measures on suspicion of disease
9. Measures following suspicion – premises other than contact premises
10. Measures following suspicion – contact premises
11. Powers to prevent horses from being brought onto other premises
12. Killing horses on suspect premises and infected premises and disposal of carcasses
13. Revocation of notices declaring premises to be infected premises

PART 4

Slaughterhouses

14. Imposition of initial controls at slaughterhouses
15. Action following examination

PART 5
Non-captive horses

16. Suspicion relating to non-captive horses

PART 6
Area controls

17. Temporary control zone
18. Control zone, protection zone and surveillance zone
19. Infection zone
20. Declaration of zones where African horse sickness suspected or confirmed outside Scotland
21. Premises straddling zones

PART 7
Vaccination

22. Prohibition on vaccination except in certain cases
23. Compulsory vaccination
24. Vaccinated horses

PART 8
Enforcement and miscellaneous provisions

25. Declaration of zones
26. Notices
27. Licences
28. Powers of inspectors
29. Powers of inspectors in case of default
30. Marks applied under this Order
31. Notice following a contravention on movement
32. Compensation
33. Main occupier of premises under restriction – access for welfare purposes
34. False information
35. Protection of inspectors acting in good faith
36. Offences by bodies corporate, Scottish partnerships and unincorporated associations
37. Enforcement
38. Exceptional circumstances
39. Amendments

SCHEDULE — Measures on suspect and infected premises and on premises in a control zone

The Scottish Ministers make the following Order in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a) and sections 1, 7(1), 8(1), 15(4), 17(1), 23, 25, 28, 35(1) and (3), 83(2), 87(2) and 88(2) of the Animal Health Act 1981(b) and all other powers enabling them to do so(c).

PART 1

Introduction

Citation, commencement and extent

1. This Order—

- (a) may be cited as the African Horse Sickness (Scotland) Order 2012;
- (b) comes into force on 1st July 2012; and
- (c) extends to Scotland only.

Interpretation

2.—(1) In this Order—

“authorised veterinary inspector” means the veterinary inspector authorised by the Scottish Ministers to receive information about horses or carcasses infected or suspected of being infected with African horse sickness virus for the area concerned;

“carcase” means carcase of a horse;

“Chief Veterinary Officer” means the Chief Veterinary Officer for Scotland;

“contact premises” means premises that have an epidemiological connection with infected premises, including those that due to their proximity to infected premises the Chief Veterinary Officer considers have an epidemiological connection with infected premises;

“the Directive” means Council Directive 92/35/EEC on laying down control rules and measures to combat African horse sickness(d);

“equipment” means, except in article 28(3)(a), any equipment that may have been in contact with blood or other bodily fluids from a horse, including needles and surgical or dental equipment, unless that equipment has either been sterilised following such contact or is securely confined in a sharps container complying with British Standard 7320(e) (or equivalent standard);

“genetic material” means any semen, ovum or embryo of a horse;

“horse” means any animal of the family Equidae and includes hybrids of those animals;

“infected premises” means premises that have been declared to be infected premises under article 9(8) or 10(7);

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- (a) 1972 c.68 (“the 1972 Act”). Section 2(2) was amended by paragraph 15(3) of Schedule 8 to the Scotland Act 1998 (c.46) (“the 1998 Act”) (which was amended by section 27(4) of the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”). Section 2(2) was also amended by section 27(1)(a) of the 2006 Act and by Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7). The powers in section 2(2) are exercised in regard to articles 12(1), (2) and (3)(a), 16(6)(e) and 32 of this Order. 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 1998 Act.
 - (b) 1981 c.22 (“1981 Act”). Section 8 was amended by paragraph 1 of schedule 2 to the Animal Health and Welfare (Scotland) Act 2006 (asp 11). The functions conferred upon “the Ministers” (as defined in section 86 of the 1981 Act) were transferred, insofar as within devolved competence, to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).
 - (c) The powers to make this Order are exercised together by virtue of section 33(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10). The Order is subject to the negative procedure by virtue of section 33(4) of that Act.
 - (d) OJ L 157, 10.6.1992, p.19, last amended by Council Directive 2008/73/EC (OJ L 219, 14.8.2008, p.40).
 - (e) ISBN 0 580 18481 1, published 29th June 1990.

“main occupier”, in relation to premises, means the person who has overall responsibility of the premises;

“occupier”, in relation to premises, includes any person who has ownership or charge of a horse on the premises;

“premises” includes any place;

“suspect premises” means premises that have been designated as suspect premises under article 8(2); and

“vector” means an insect of the genus *Culicoides* or any other species of arthropod capable of transmitting African horse sickness virus.

(2) In this Order, a reference to a notified horse or carcass is a reference to a horse or carcass (as the case may be) which is the subject of a notification given under article 5.

(3) Any reference in this Order to anything done in writing or produced in written form includes a reference to an electronic communication, within the meaning of section 15 of the Electronic Communications Act 2000(a) which has been recorded and is consequently capable of being reproduced.

Extension of definitions of “animals” and “disease”

3. For the purposes of the Animal Health Act 1981 in its application to this Order—

- (a) the definition of “animals” in section 87(1) of that Act is extended to include horses; and
- (b) the definition of “disease” in section 88(1) of that Act is extended to include African horse sickness.

Disapplication

4. This Order does not apply—

- (a) to anything done under the terms of a licence granted under the Specified Animal Pathogens (Scotland) Order 2009(b); or
- (b) at any border inspection post within the meaning of, and for so long as it remains approved for the purposes of, regulation 11 of the Trade in Animals and Related Products (Scotland) Regulations 2012(c).

PART 2

Notification of suspicion of African horse sickness

Notification requirements

5.—(1) Any person who suspects that a horse or carcass is infected with African horse sickness virus must immediately notify (orally or otherwise) the authorised veterinary inspector.

(2) Any person who examines a sample taken from a horse or carcass and who—

- (a) suspects that the horse or carcass is infected with African horse sickness virus; or
- (b) detects evidence of antibodies to, or antigens of, that virus,

must immediately notify (orally or otherwise) the authorised veterinary inspector.

(3) Paragraphs (1) and (2) are subject to paragraph (5).

(a) 2000 c.7, amended by the Communications Act 2003 (c.21), sections 406 and 411(2) and (3) and Schedule 17, paragraph 158.

(b) S.S.I. 2009/45, amended by S.S.I. 2009/394.

(c) S.S.I. 2012/177.

(4) A veterinary inspector may serve a notice on any occupier of infected premises indicating that any further suspected cases of African horse sickness virus on those premises need not be notified to the authorised veterinary inspector for so long as the notice remains in force.

(5) Where a notice has been served under paragraph (4)—

- (a) paragraph (1) does not apply in relation to any horse or carcase on the infected premises; and
- (b) paragraph (2) does not apply in relation to any sample taken from a horse or carcase on the infected premises,

for so long as the notice remains in force.

(6) Unless earlier revoked by a veterinary inspector, a notice served under paragraph (4) ceases to be in force when the notice declaring the premises to be infected premises served under article 9(8) or 10(7) (as the case may be) is revoked by a veterinary inspector or by virtue of article 13(2).

PART 3

Suspicion and confirmation of African horse sickness

Scope of Part 3

6. This Part does not apply in relation to slaughterhouses or non-captive horses.

Initial controls following notification

7.—(1) This article applies where—

- (a) the authorised veterinary inspector receives a notification under article 5; and
- (b) a veterinary inspector considers that further investigation relating to the possible presence of African horse sickness virus is necessary.

(2) The veterinary inspector must inform (orally or otherwise) the person who gave the notification and, if different, the main occupier of the premises where the notified horse or carcase (as the case may be) is located, that further investigation is necessary.

(3) Where that person has, or those persons have, been so informed, the controls in paragraph (7) apply in relation to the premises where the notified horse or carcase (as the case may be) is located.

(4) Where those premises are not the premises where the notified horse is normally kept or, in the case of a notified carcase, the horse before it died was normally kept, the veterinary inspector may also inform (orally or otherwise) the main occupier of those other premises that further investigation is necessary.

(5) Where that main occupier has been so informed, the controls in paragraph (7), other than in sub-paragraph (a)(i), apply in relation to those other premises.

(6) The veterinary inspector—

- (a) must go to the premises where the notified horse or carcase is located and examine that horse or carcase and may examine any other horse or carcase there; and
- (b) where paragraph (4) applies, may go to those other premises and examine any horse or carcase there.

(7) The controls are that—

- (a) no person may move—
 - (i) the notified horse or carcase from the premises where it is located;
 - (ii) any equipment or genetic material from the premises; or

- (iii) any other horse or carcase from or to the premises, except that any horse normally kept at the premises may return there; and
- (b) if required by the veterinary inspector and to the extent that it is practicable to do so, the main occupier must ensure that—
 - (i) all horses are moved away from any part of the premises where vectors are likely to be present; and
 - (ii) areas which may be breeding grounds for vectors are identified and any available vector control measures directed by the veterinary inspector are implemented.
- (8) The controls imposed under this article continue to apply until—
 - (a) the veterinary inspector confirms (orally or otherwise) to any occupier of the premises that the presence of African horse sickness virus on the premises is not suspected; or
 - (b) the premises become suspect premises^(a).

Imposing measures on suspicion of disease

8.—(1) This article applies where the veterinary inspector suspects that a horse or carcase that is or has been infected with African horse sickness virus is or has been on any premises (whether following a notification under article 5 or otherwise).

(2) The veterinary inspector must serve a notice on the main occupier designating those premises as suspect premises, at which point the measures in the Schedule have effect^(b).

(3) Such a notice served in relation to contact premises must specify that the premises are contact premises.

(4) A notice served under paragraph (2) may require the main occupier to erect and maintain such signs on the premises as may be required by the veterinary inspector.

- (5) Where a notice has been served under paragraph (2), the veterinary inspector must—
 - (a) as far as is reasonably practicable, assess places on the premises likely to facilitate the survival of the vectors, or to accommodate them, and the practicality of using appropriate vector control measures in such places; and
 - (b) begin an epidemiological inquiry to try to establish at least—
 - (i) the length of time that African horse sickness virus may have existed in horses on the premises;
 - (ii) the origin of that virus;
 - (iii) the identification of other premises on which there are horses which may have become infected;
 - (iv) the presence and distribution of vectors;
 - (v) the movement of any horse to or from the premises or any carcases removed from them; and
 - (vi) the possibility that non-captive horses may be involved in the spread of the virus, and continue the inquiry until these matters have been established so far as is practicable or the possible presence of African horse sickness virus has been discounted.

Measures following suspicion – premises other than contact premises

9.—(1) This article applies where premises, other than contact premises, are designated as suspect premises.

(2) The veterinary inspector must take all reasonable steps to establish whether or not African horse sickness virus is present.

(a) At which point other measures have effect: see article 8(2).

(b) See also the power of the Scottish Ministers under article 17 to declare a temporary control zone.

(3) For the purposes of paragraph (2), the veterinary inspector may, if the Chief Veterinary Officer considers it necessary, take and have tested either or both—

- (a) samples from any horse or carcase that is, or has been, on the premises; and
- (b) environmental samples from the premises.

(4) If the Chief Veterinary Officer is satisfied following the steps referred to in paragraph (2) that it is no longer appropriate for the premises to remain designated as suspect premises, the veterinary inspector must revoke the notice served under article 8(2).

(5) Where that notice is revoked, the measures in the Schedule, except paragraph 1(4)(a), cease to have effect.

(6) If the Chief Veterinary Officer is satisfied as a result of tests under this article that there are seropositive horses on the premises, the veterinary inspector must continue to monitor as appropriate horses on the premises and may take and have tested further samples.

(7) Paragraph (8) applies where the Chief Veterinary Officer is satisfied as a result of any test carried out under this article or any clinical signs in any horse on the premises that African horse sickness virus is present in a horse or carcase or on the premises.

(8) Where this paragraph applies, the veterinary inspector must serve a notice on the main occupier declaring the premises to be infected premises^(a).

(9) Where a notice has been served under paragraph (8), the measures in the Schedule continue to have effect.

(10) A notice served under paragraph (8) may require the main occupier to erect and maintain such signs on the premises as may be required by the veterinary inspector.

(11) If the Chief Veterinary Officer considers it necessary to reduce the risk of spread of African horse sickness virus, the notice served under paragraph (8) may require measures additional to those in the Schedule and paragraph (10).

Measures following suspicion – contact premises

10.—(1) This article applies where contact premises are designated as suspect premises.

(2) If no horse on the premises shows clinical signs of African horse sickness the veterinary inspector—

- (a) must monitor as appropriate all horses on the premises until the end of the relevant period; and
- (b) may take and have tested samples from any horse or carcase on the premises.

(3) If any horse on the premises shows clinical signs of African horse sickness during the relevant period, the veterinary inspector—

- (a) must take and have tested samples from it; and
- (b) may take and have tested samples from any other horse or carcase on the premises.

(4) If no horse on the premises has shown clinical signs of African horse sickness at any time during the relevant period and the Chief Veterinary Officer is satisfied following any tests under this article that it is no longer appropriate for the premises to remain designated as suspect premises, the veterinary inspector must revoke the notice served under article 8(2).

(5) Where that notice is revoked, the measures in the Schedule, except paragraph 1(4)(a), cease to have effect.

(6) Paragraph (7) applies where the Chief Veterinary Officer is satisfied as a result of any—

- (a) test carried out under this article;
- (b) clinical signs in any horse on the premises; or

(a) See also the power of the Scottish Ministers under article 18 to declare a control zone, protection zone and surveillance zone.

(c) epidemiological connection to infected premises,
that African horse sickness virus is present in a horse or carcass or otherwise on the premises.

(7) Where this paragraph applies, the veterinary inspector must serve a notice on the main occupier declaring the premises to be infected premises.

(8) Where a notice has been served under paragraph (7), the measures in the Schedule continue to have effect.

(9) The notice served under paragraph (7) may require the main occupier to erect and maintain such signs on the premises as may be required by the veterinary inspector.

(10) If the Chief Veterinary Officer considers it necessary to reduce the risk of spread of African horse sickness virus, the notice may require measures additional to those in the Schedule and paragraph (9).

(11) In this article, “the relevant period” is the period determined by the Chief Veterinary Officer to be necessary for establishing whether or not African horse sickness is present in a horse or carcass on the premises.

Powers to prevent horses from being brought onto other premises

11.—(1) This article applies where—

- (a) premises are infected premises; and
- (b) the Chief Veterinary Officer considers that due to the risk of African horse sickness virus spreading it is appropriate to prevent horses from being brought onto other premises.

(2) A veterinary inspector may serve a notice on the main occupier of those other premises imposing the prohibition in paragraph (3).

(3) The prohibition is that no person may move any horse onto the premises for such period as may be specified in the notice, except under the authority of a licence granted by the veterinary inspector.

(4) The notice served under paragraph (2) may require the main occupier to erect and maintain such signs on the premises as may be required by the veterinary inspector.

(5) The veterinary inspector must revoke any notice served under paragraph (2) if satisfied, having regard to the epidemiological risk, that the prohibition is no longer necessary to reduce the risk of the spread of African horse sickness virus.

Killing horses on suspect premises and infected premises and disposal of carcasses

12.—(1) The Scottish Ministers may arrange for the killing of any horse on suspect premises which is infected with African horse sickness virus or which presents clinical signs of African horse sickness.

(2) The Scottish Ministers must arrange for the killing of all horses on infected premises which are infected with African horse sickness virus or which present clinical signs of African horse sickness.

(3) If any horse is killed under paragraph (1) or (2) the Scottish Ministers—

- (a) must arrange for the disposal of its carcass; and
- (b) in relation to the carcass of any other horse that has died on those premises from African horse sickness, may—
 - (i) arrange for its disposal; or
 - (ii) require the owner to arrange for its disposal.

(4) The owner must ensure that any such disposal is carried out in such a way as to avoid the risk of spread of African horse sickness virus.

Revocation of notices declaring premises to be infected premises

13.—(1) The veterinary inspector must not revoke a notice declaring premises to be infected premises unless the Chief Veterinary Officer is satisfied that there is minimal risk of further infection from those premises.

(2) If not earlier revoked by the veterinary inspector, a notice declaring premises to be infected premises is revoked when the premises to which the notice relates cease to be within any zone declared under Part 6.

(3) Where a notice declaring premises to be infected premises is revoked by the veterinary inspector or by virtue of paragraph (2), the measures in the Schedule, except paragraph 1(4)(a), cease to have effect.

PART 4

Slaughterhouses

Imposition of initial controls at slaughterhouses

14.—(1) This article applies—

(a) where—

(i) the authorised veterinary inspector has been notified under article 5 that it is suspected that a horse or carcass at a slaughterhouse is infected with African horse sickness virus; and

(ii) a veterinary inspector considers that further investigation relating to the possible presence of African horse sickness virus is necessary; or

(b) where for any other reason a veterinary inspector considers that further investigation relating to the possible presence of African horse sickness virus at a slaughterhouse is necessary.

(2) Where paragraph (1)(a) applies, the veterinary inspector must inform (orally or otherwise) the person who gave the notification that further investigation is necessary, and the controls in paragraph (5) then apply.

(3) The veterinary inspector must then go to the slaughterhouse and examine the notified horse or carcass, and may examine any other horse or carcass there, as the veterinary inspector considers appropriate.

(4) Where paragraph (1)(b) applies, the veterinary inspector may by notice served on the person in charge of the slaughterhouse impose the controls in paragraph (5).

(5) The controls are that the person in charge of the slaughterhouse must ensure that—

(a) no horse or carcass is moved from the slaughterhouse;

(b) any notified horse, and any other horse from the same premises as the notified horse, is not slaughtered unless instructed to do so by the veterinary inspector; and

(c) if any notified horse or any horse from the same premises as a notified horse has already been, or is subsequently, slaughtered or has died, its carcass is specifically identified and retained at the slaughterhouse until the veterinary inspector has examined it, and taken samples if considered necessary.

Action following examination

15.—(1) This article applies where the veterinary inspector has acted under article 14(3).

(2) If the veterinary inspector is satisfied that African horse sickness virus does not exist in any horse or carcass at the slaughterhouse the veterinary inspector must confirm this (orally or otherwise) to the person in charge of the slaughterhouse.

(3) If the presence of African horse sickness virus cannot be ruled out, the veterinary inspector—

- (a) may by notice served on the person in charge of the slaughterhouse vary the controls applicable under article 14(2) or imposed by notice under article 14(4); and
- (b) may take and have tested samples to establish the presence of that virus at the slaughterhouse^(a).

(4) If the Chief Veterinary Officer is satisfied that tests carried out under this article demonstrate that African horse sickness virus is not present in the slaughterhouse the veterinary inspector must confirm this (orally or otherwise) to the person in charge of the slaughterhouse.

(5) Where confirmation is given under paragraph (2) or (4), any—

- (a) controls applicable under article 14(2) (and, where applicable, as varied under paragraph (3)(a)) cease to have effect; and
- (b) notice served under article 14(4) (and, where applicable, as varied under paragraph (3)(a)) is revoked.

PART 5

Non-captive horses

Suspicion relating to non-captive horses

16.—(1) This article applies where a veterinary inspector suspects that a non-captive horse may be infected with African horse sickness virus.

(2) The veterinary inspector must take all reasonable steps to establish whether or not that suspicion is correct.

(3) Where the veterinary inspector concludes that African horse sickness virus is likely to be present in such a horse, the Scottish Ministers must take such steps as they consider appropriate (which may include the declaration of an infection zone under article 19) to reduce the risk of that virus spreading to other horses.

(4) For the purposes of paragraph (3), the veterinary inspector may by notice served on the main occupier of premises impose restrictions on the movement of horses or impose such other measures in relation to those premises that the Chief Veterinary Officer considers necessary.

(5) The steps referred to in paragraph (2) or (3) need not be taken if the Scottish Ministers are satisfied that taking those steps is not likely to reduce the risk of African horse sickness virus spreading.

(6) A veterinary inspector and, when acting under the direction of a veterinary inspector, an inspector or any other person with the necessary expertise may enter any premises (except any premises used wholly or mainly as a private dwelling house) to—

- (a) undertake surveillance of non-captive horses;
- (b) capture and detain them;
- (c) vaccinate them;
- (d) take samples from them; and
- (e) kill them if the Chief Veterinary Officer is satisfied that it is necessary for the control of African horse sickness, and in particular if—
 - (i) it is not reasonably practicable to take samples from them without killing them;
 - (ii) it is not reasonably practicable to detain them pending the results of any testing or sampling; or

(a) See also the power of the Scottish Ministers under article 17 to declare a temporary control zone.

- (iii) they are spreading or may spread African horse sickness virus or are at risk of acquiring African horse sickness virus.

PART 6

Area controls

Temporary control zone

17.—(1) This article applies where—

- (a) premises are suspect premises; or
- (b) a veterinary inspector has taken samples under article 15(3) from a horse or carcase at a slaughterhouse.

(2) Where the Scottish Ministers consider it necessary to reduce the risk of spread of African horse sickness virus, a temporary control zone may be declared by the Scottish Ministers around the suspect premises or the slaughterhouse (as the case may be).

(3) A temporary control zone must be of such size as the Scottish Ministers consider necessary having regard to the risk of spread of African horse sickness virus.

(4) Within a temporary control zone no person may move any horse or carcase to or from premises or any equipment or genetic material off premises, except under the authority of a licence granted by a veterinary inspector.

(5) If the Scottish Ministers consider it necessary to reduce the risk of spread of African horse sickness virus, the Scottish Ministers may in the declaration of a temporary control zone impose any other measures.

Control zone, protection zone and surveillance zone

18.—(1) This article applies where—

- (a) premises are infected premises; or
- (b) tests under article 15 indicate the existence of African horse sickness virus in a horse or carcase at a slaughterhouse.

(2) The Scottish Ministers must declare a control zone, a protection zone and a surveillance zone, around the infected premises or the slaughterhouse (as the case may be).

(3) A control zone must have a radius of at least 20 kilometres, a protection zone must have a radius of at least 100 kilometres and a surveillance zone must have a radius of at least 150 kilometres, each centred on the part of the premises that the Scottish Ministers considers most appropriate for disease control.

(4) The Scottish Ministers must ensure that within those zones—

- (a) premises that contain horses are identified as far as is reasonably practicable and without unduly diverting resources from preventing the spread of disease; and
- (b) a veterinary inspector visits in a systematic way as directed by the Chief Veterinary Officer any such identified premises, and—
 - (i) inspects and as necessary examines the horses; and
 - (ii) collects and tests such samples as the Chief Veterinary Officer considers necessary.

(5) The measures in the Schedule have effect in relation to premises in a control zone.

(6) When a control zone is revoked, the measures in the Schedule, except paragraph 1(4)(a), cease to have effect.

(7) No person may move any horse, or any genetic material out of a—

- (a) protection zone; or
- (b) surveillance zone to an area outside any zone,

except under the authority of a licence granted by a veterinary inspector.

- (8) No person may move from premises within a protection zone or a surveillance zone any—
- (a) ass, donkey, zebra, mule or other hybrid of these except under the authority of a licence granted by a veterinary inspector; or
 - (b) other horse that shows clinical signs of African horse sickness on the day of the proposed move.

(9) The Scottish Ministers may declare that any other measure considered necessary to reduce the risk of spread of African horse sickness virus applies in respect of the whole or any part of a control zone, protection zone or surveillance zone.

Infection zone

19.—(1) This article applies where, under article 16, a veterinary inspector concludes that African horse sickness virus is likely to be present in a non-captive horse.

(2) The Scottish Ministers may declare an infection zone of such size as they consider necessary to reduce the risk of spread of African horse sickness virus.

- (3) The Scottish Ministers may declare—
- (a) restrictions on the movement of horses into or out of an infection zone; and
 - (b) that any other measure considered necessary to reduce the risk of spread of African horse sickness virus applies in respect of the whole or any part of an infection zone.

Declaration of zones where African horse sickness suspected or confirmed outside Scotland

20.—(1) This article applies where—

- (a) the presence of African horse sickness virus is suspected or officially confirmed for the purposes of the Directive outside Scotland; and
- (b) the Scottish Ministers consider that there is a risk of spread of African horse sickness virus to Scotland.

(2) The Scottish Ministers may declare in Scotland any of the following—

- (a) a temporary control zone of such size considered necessary to reduce the risk of the spread of African horse sickness;
- (b) a control zone to extend to at least such area in Scotland as is within 20 kilometres of the centre of the control zone centred on the infected premises outside Scotland;
- (c) a protection zone to extend to at least such area in Scotland as is within 100 kilometres of the centre of the protection zone centred on the infected premises outside Scotland;
- (d) a surveillance zone to extend to at least such area in Scotland as is within 150 kilometres of the centre of the surveillance zone centred on the infected premises outside Scotland; and
- (e) an infection zone of such size considered necessary to reduce the risk of the spread of African horse sickness.

(3) Articles 17(4) and (5), 18(5) to (9) and 19(3) apply to any zone declared under this article as if it were a zone declared under article 17, 18 or 19 (as applicable).

Premises straddling zones

21.—(1) Premises partly inside and partly outside a temporary control zone declared under article 17 or 20 are treated as being inside the temporary control zone.

(2) Premises partly inside and partly outside a control zone declared under article 18 or 20 are treated as being inside the control zone.

(3) Premises partly inside and partly outside a protection zone declared under article 18 or 20 in an area other than in a control zone are treated as being inside the protection zone.

(4) Premises partly inside a surveillance zone declared under article 18 or 20 and partly in an area other than a protection zone are treated as being inside the surveillance zone.

(5) Premises partly inside and partly outside an infection zone declared under article 19 or 20 are treated as being inside the infection zone.

PART 7

Vaccination

Prohibition on vaccination except in certain cases

22.—(1) A person must not vaccinate a horse against African horse sickness except—

- (a) in accordance with this Order; or
- (b) under the authority of a licence granted by a veterinary inspector.

Compulsory vaccination

23.—(1) The Scottish Ministers may declare a vaccination zone, other than in a surveillance zone.

(2) Where a vaccination zone has been declared, any occupier of premises inside that zone must, subject to paragraph (4), ensure the vaccination of horses on their premises in accordance with that declaration.

(3) Premises partly inside and partly outside a vaccination zone are treated as being inside that zone.

(4) A veterinary inspector may serve a notice on any person in possession or charge of a horse, other than one kept in a surveillance zone, requiring that person to vaccinate the horse in accordance with the notice (whether or not a vaccination zone has been declared under paragraph (1)).

Vaccinated horses

24.—(1) The person in possession or charge of a horse that has been vaccinated against African horse sickness must ensure that the horse is identified by way of a microchip and a record of such horse having been vaccinated is kept.

(2) Except under the authority of a licence granted by a veterinary inspector, no person may move a vaccinated horse from the premises where it was vaccinated until at least 60 days have elapsed since—

- (a) the date of the vaccination; or
- (b) if the vaccination includes a course of doses, the date of the final dose.

PART 8

Enforcement and miscellaneous provisions

Declaration of zones

25.—(1) A declaration of a zone under this Order—

- (a) must be in writing and publicised;
- (b) must designate the extent of the zone being declared; and
- (c) may be amended or revoked by further declaration at any time.

(2) Unless the Scottish Ministers state otherwise in any declaration of a zone, any movement which is prohibited but has already started when such a declaration comes into force may be completed.

(3) Any person on whom a restriction or other measure is imposed by virtue of article 17(5), 18(9) or 19(3) must comply with it.

(4) In deciding to amend or revoke any declaration of a zone, the Scottish Ministers must have regard to the epidemiological situation and the measures necessary to control the spread of African horse sickness virus.

Notices

26.—(1) Any notice served under this Order may be amended, suspended or revoked at any time by a further notice.

(2) A person must comply with the terms of any notice served under this Order.

Licences

27.—(1) A licence granted under this Order must be in writing and may be—

- (a) general or specific;
- (b) subject to conditions; and
- (c) amended, suspended or revoked in writing at any time.

(2) A person moving any horse, equipment or genetic material under the authority of a specific licence must—

- (a) carry the licence or a copy of it at all times during the movement;
- (b) on demand by an inspector, produce the licence or a copy and allow a copy or extract to be taken; and
- (c) keep the licence for at least 6 months after the movement has been completed.

(3) Where a licence is required or authorised under this Order to be granted by a veterinary inspector, it may also be granted by an inspector acting under the direction of a veterinary inspector.

(4) A person moving any horse, equipment or genetic material under the authority of a general licence must—

- (a) carry, at all times during the movement, a document containing details of—
 - (i) what is being transported, including the quantity;
 - (ii) the date of the movement;
 - (iii) the name of the person responsible for the horse or equipment or genetic material at both the place of departure and at the place of destination; and
 - (iv) the addresses of the place of departure and of the destination;
- (b) on demand by an inspector, produce the document and allow a copy or extract to be taken; and
- (c) keep the document for at least 6 months after the movement has been completed.

(5) If any horse, equipment or genetic material has been moved to premises under a licence, a veterinary inspector may serve a notice on any occupier of the premises of destination imposing such movement restrictions on those premises as are necessary to prevent the risk of spreading African horse sickness virus.

(6) Except where otherwise directed by the Scottish Ministers, licences granted in England or Wales for activities which could be licensed in Scotland under this Order have effect in Scotland as if they were licences granted under this Order, and the provisions of this article apply accordingly.

Powers of inspectors

28.—(1) A veterinary inspector may, at all reasonable hours, enter any premises, vehicle or vessel (except any premises used wholly or mainly as a private dwelling house) for a relevant purpose.

(2) A person entering premises, a vehicle or a vessel under paragraph (1) must produce, if required, a duly authenticated document showing their authority to enter.

(3) A person entering premises, a vehicle or a vessel under paragraph (1) may—

- (a) take with them any equipment; and
- (b) be accompanied by—
 - (i) such other person as they consider necessary; and
 - (ii) a representative of the European Commission acting for the purpose of the enforcement of an EU obligation.

(4) A person entering premises under paragraph (1) may take a vehicle with them.

(5) Upon entering any premises, vehicle or vessel, an inspector may, for a relevant purpose—

- (a) detain, isolate or restrain any horse there;
- (b) require the detention, isolation or restraint of any horse there;
- (c) detain, examine or isolate any thing there;
- (d) require the detention or isolation of any thing there;
- (e) mark for identification purposes any horse, carcass or thing there;
- (f) require any person who knows about the movement of a horse to give details of that movement, and the details of any other horse with which it has been in contact;
- (g) require any occupier of premises or keeper of horses on premises to give details of horses either on those premises or on other premises where the occupier or keeper has horses;
- (h) require the production of any record kept, in whatever form that record is held;
- (i) copy any record referred to in sub-paragraph (h); and
- (j) inspect and check the operation of any computer and associated apparatus or material used in connection with the making and keeping of records.

(6) A veterinary inspector may for a relevant purpose—

- (a) require the cleansing and disinfection of any part of any premises, or of any person, horse, vehicle, vessel or thing on premises;
- (b) require the testing of any horse;
- (c) require the treatment of any horse;
- (d) require any occupier of premises or the keeper of animals on premises to—
 - (i) retain a horse for use as a sentinel horse, or allow the introduction of a sentinel horse onto premises;
 - (ii) move a horse to a place specified by the veterinary inspector;
- (e) set traps for, and trap, vectors;
- (f) require, or implement, vector control measures; and
- (g) require the destruction, burial, disposal or treatment of any thing.

(7) A veterinary inspector may for a relevant purpose—

- (a) examine any horse or carcass; and
- (b) carry out tests, and take samples (including blood samples) from any horse, carcass or thing, for the purpose of diagnosis or epidemiological inquiry.

(8) For the purposes of this article, each of the following is a “relevant purpose”—

- (a) monitoring or carrying out surveillance for—
 - (i) the African horse sickness virus;
 - (ii) antibodies to the African horse sickness virus; or
 - (iii) vectors; or

(b) ensuring compliance with this Order.

(9) In this article, “sentinel horse” means a horse that is used for the purpose of surveillance for the African horse sickness virus which, when first introduced or retained at any premises for that purpose, does not have antibodies to the African horse sickness virus in respect of which surveillance is being carried out.

Powers of inspectors in case of default

29. If any person fails to comply with a requirement in or under this Order, an inspector may take such steps as that inspector considers necessary to ensure the requirement is met at the expense of that person.

Marks applied under this Order

30. A person must not remove, obscure or erase a mark applied to any animal, carcass, animal product, vehicle or other thing under this Order unless an inspector has given written authority.

Notice following a contravention on movement

31.—(1) If a horse has been moved to any premises in contravention of any provision of this Order or any licence or notice served under this Order, an inspector may serve a notice on the main occupier of those premises requiring that—

- (a) the horse, or any other horse on the premises, be detained on the premises; or
- (b) any horse on the premises be moved to other premises specified in the notice.

(2) If a horse has been moved to other premises under such a notice, an inspector may serve a notice on any occupier of those other premises imposing such movement restrictions relating to horses on those premises as the inspector considers necessary to reduce the risk of spreading African horse sickness virus.

Compensation

32.—(1) The Scottish Ministers must pay compensation for horses killed under article 12 or 16(6)(e).

(2) No compensation is payable for a horse that, at the time it was killed, was affected with African horse sickness.

(3) The amount of any compensation payable under paragraph (1)—

- (a) subject to sub-paragraph (b), is the value of the horse immediately before it was killed;
- (b) may not in any case exceed £2500 for any horse.

(4) The value of the horse is—

- (a) the amount determined in writing by the Scottish Ministers (“the Scottish Ministers’ valuation”); or
- (b) where the determination of the value has been referred to an appointed valuer under paragraph (5), the amount determined in writing by that valuer instead.

(5) If—

- (a) the Scottish Ministers’ valuation is less than £2500; and

(b) within 14 days after receiving the Scottish Ministers' valuation, the owner of the horse killed gives written notice to the Scottish Ministers disputing that valuation, with reasons, the Scottish Ministers must refer the determination of the value to an appointed valuer.

(6) The appointed valuer must be a person—

- (a) appointed jointly by the owner and the Scottish Ministers for the purpose of conducting a valuation under this article; or
- (b) failing agreement on such appointment within 10 days of receipt of the notice given under paragraph (5), appointed by the Scottish Ministers for that purpose.

(7) The determination of value by the appointed valuer is final and binding on the Scottish Ministers and the owner (but this is subject to paragraph (3)(b)).

(8) Fees charged or expenses incurred by an appointed valuer for work done under this article must be paid—

- (a) where the valuer's determination is equal to or less than the Scottish Ministers' valuation, by the owner;
- (b) otherwise, by the Scottish Ministers.

(9) Nothing in this article authorises any delay in the killing of a horse for the purposes of controlling African horse sickness.

Main occupier of premises under restriction – access for welfare purposes

33. In relation to premises under any restriction under this Order, the main occupier must allow the owner of any horse on the premises, or any person acting on behalf of the owner, to enter the premises to feed or otherwise attend to the welfare of the horse during the period of restriction and for 7 days following its end.

False information

34. A person must not furnish information which that person knows to be false or misleading to any person acting in the execution of this Order.

Protection of inspectors acting in good faith

35.—(1) No inspector is personally liable in respect of any act done by that person in the performance or purported performance of the functions within the scope of that person's employment, if the person did that act in the honest and reasonable belief that that person's duty under these Regulations required or entitled the person to do so.

(2) Paragraph (1) does not relieve an enforcement authority from any liability in respect of acts of its officers.

Offences by bodies corporate, Scottish partnerships and unincorporated associations

36.—(1) Where—

- (a) an offence under the Animal Health Act 1981^(a) in relation to this Order has been committed by a body corporate or a Scottish partnership or other unincorporated association; and
- (b) it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of—
 - (i) a relevant individual; or
 - (ii) an individual purporting to act in the capacity of a relevant individual,

(a) 1981 c.22.

the individual as well as the body corporate, Scottish partnership or unincorporated association commits the offence and is liable to be proceeded against and punished accordingly.

(2) In paragraph (1), “relevant individual” means—

- (a) in relation to a body corporate—
 - (i) a director, manager, secretary or other similar officer of the body;
 - (ii) where the affairs of the body are managed by its members, a member;
- (b) in relation to a Scottish partnership, a partner; or
- (c) in relation to an unincorporated association other than a Scottish partnership, a person who is concerned in the management or control of the association.

Enforcement

37.—(1) Subject to paragraph (2), this Order is enforced by the local authority.

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

Exceptional circumstances

38. A veterinary inspector may for the purpose of ensuring the health or welfare of any horse—

- (a) license a person to carry out any action that is otherwise prohibited under this Order; or
- (b) exempt a person, by notice, from any requirement under this Order.

Amendments

39.—(1) In the Specified Diseases (Notification and Slaughter) Order 1992(a), in article 2(1) omit the reference to African horse sickness.

(2) In the Specified Diseases (Notification) Order 1996(b), in Part 1 of Schedule 1 omit the reference to African horse sickness.

RICHARD LOCHHEAD
A member of the Scottish Executive

St Andrew’s House,
Edinburgh
29th May 2012

(a) S.I. 1992/3159, to which there are amendments not relevant to this Order.
(b) S.I. 1996/2628, to which there are amendments not relevant to this Order.

SCHEDULE

Articles 8(2), 9(9),
10(8) and 18(5)

Measures on suspect and infected premises and on premises in a control zone

Records

- 1.—(1) The main occupier must keep a record of every horse on the premises.
- (2) The main occupier must take all reasonable steps to update the record to show each of the number of horses on the premises that—
 - (a) have died;
 - (b) show clinical signs of African horse sickness;
 - (c) have been born since restrictions under this Order were placed on the premises; and
 - (d) enter or leave the premises under licence.
- (3) The main occupier must ask any other occupier to report any changes in the details of their horses on the premises that are relevant to the record and any other occupier must do so.
- (4) The main occupier must keep the record for at least 6 months after (as the case may be) the later of—
 - (a) the revocation of the notice served under article 8(2), 9(8), or 10(7); or
 - (b) the premises ceasing to be within the control zone.

Housing of horses

2. An occupier must ensure that every horse in the ownership or control of that occupier on the premises is kept—
 - (a) so far as is practicable on the part or parts of the premises where it may be less exposed to vectors; or
 - (b) as directed by a veterinary inspector.

Restriction on movement of horses, carcasses, equipment or genetic material

3. No person may move any horse or carcase to or from the premises or any equipment or genetic material from the premises, except under the authority of a licence granted by a veterinary inspector.

Control of vectors

4. The main occupier must implement such practicable vector control measures as a veterinary inspector may require.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order implements in Scotland the provisions of Council Directive 92/35/EEC laying down control rules and measures to combat African horse sickness. It revokes the provisions of the Specified Diseases (Notification and Slaughter) Order 1992 and the Specified Diseases (Notification) Order 1996 in so far as they apply to African horse sickness.

Part 1 is introductory and includes definitions.

Part 2 deals with notification of suspicion of African horse sickness.

Part 3 and the Schedule make provision for where African horse sickness is suspected or confirmed on premises. Part 3 also deals with premises which have a link with infected premises and makes provision, following the declaration of premises as infected premises, to prevent horses from being brought onto other premises due to the risk of African horse sickness virus spreading.

Part 4 deals with slaughterhouses.

Part 5 makes special provision for non-captive horses.

Part 6 and the Schedule make provision for the establishment of area controls by way of declaration of different zones.

Part 7 prohibits vaccination against African horse sickness except in the circumstances set out there, and contains powers to declare a vaccination zone.

Part 8 contains provisions relating to enforcement and other matters.

This Order is enforced by the local authority, unless the Scottish Ministers direct otherwise.

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

A business and regulatory impact assessment has been prepared and placed in the Scottish Parliament Information Centre. Copies may be obtained from the Scottish Government Directorate for Agriculture, Food and Rural Communities, Animal Health and Welfare Division, Saughton House, Broomhouse Drive, Edinburgh EH11 3XD.

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