

2010 No. 419

ANIMALS

ANIMAL HEALTH

The Sheep Scab (Scotland) Order 2010

Made - - - - - *24th November 2010*

Coming into force - - - - - *17th December 2010*

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The Scottish Ministers make the following Order in exercise of the powers conferred by sections 1, 7(1), 8(1), 15(4), 25, 28 and 83(2) of the Animal Health Act 1981(a) and all other powers enabling them to do so.

PART 1

INTRODUCTORY PROVISIONS

Citation, commencement, extent and application

1. This Order—
 - (a) may be cited as the Sheep Scab (Scotland) Order 2010;
 - (b) comes into force on 17th December 2010;
 - (c) extends to Scotland only; and
 - (d) does not apply in the local government area of the Shetland Islands(b).

Interpretation

- 2.—(1) In this Order, unless the context otherwise requires—
 - “affected” means affected or suspected of being affected with sheep scab;
 - “carcase” means the carcase of a sheep, and includes part of a carcase and the meat, bones, hide, skin, fleece, wool, hoofs, horns, offal, or other part of a sheep, separately or otherwise, or any portion thereof;
 - “clearance notice” means a notice within the meaning of article 8;
 - “common land” means land grazed in common;
 - “Divisional Veterinary Manager” means the veterinary inspector appointed by the Scottish Ministers to receive information about affected sheep and carcasses, for the area in which the sheep or carcasses are located;
 - “market” means a market, fairground, sale-yard or other place where sheep are commonly exposed for sale, or any place where sheep are gathered together for the purpose of selection or grading for sale;
 - “place of exhibition” means a place at which exhibitions or shows of sheep are held;
 - “premises” includes any land, building or other place;
 - “sheep scab” means an infestation of psoroptic or sarcoptic mites;

(a) 1981 c.22 (“the 1981 Act”). Section 8 was amended by paragraph 1 of Schedule 2 to the Animal Health and Welfare (Scotland) Act 2006 (asp 11). Powers to make orders under these sections were originally conferred on “the Ministers”, as defined in section 86(1) of the 1981 Act. The functions of the Ministers were, insofar as within devolved competence, transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(b) The local government area of the Shetland Islands comprises the area of Shetland Islands Council as set out in section 1(2) of, and Schedule 1 to, the Local Government etc. (Scotland) Act 1994 (c.39). See also the Sheep Scab (Shetland Islands) Order 2003 (S.S.I. 2003/202).

“treatment” means treatment with a product for the treatment of sheep scab which may be placed on the market under the Veterinary Medicines Regulations 2009(a); and “treat” and “treated” are to be construed accordingly; and

“veterinary surgeon” means a person registered in the register of veterinary surgeons, or in the supplementary veterinary register, kept under the Veterinary Surgeons Act 1966(b).

(2) Any reference in this Order to anything done in writing or produced in electronic form includes a reference to an electronic communication, as defined in section 15(1) of the Electronic Communications Act 2000(c) which has been recorded and is consequently capable of being reproduced.

Licences and notices

3.—(1) Licences issued or notices given under this Order—

- (a) must be in writing;
- (b) may be made subject to conditions necessary to prevent the spread of sheep scab; and
- (c) may be amended, suspended or revoked in writing at any time.

(2) A person moving sheep under the authority of a licence issued under this Order must—

- (a) keep the licence or a copy of it with him or her at all times during the licensed movement; and
- (b) on demand made under this Order by an inspector—
 - (i) produce the licence or copy and allow a copy to be taken; and
 - (ii) provide his or her name and address.

PART 2

NOTIFICATION, MOVEMENT RESTRICTIONS AND VETERINARY ENQUIRY

Notification of sheep scab or suspected sheep scab

4.—(1) A person who has possession of, or is in charge of, any sheep or carcass which the person knows or suspects has sheep scab must as soon as possible notify the Divisional Veterinary Manager of that knowledge or suspicion.

(2) A veterinary surgeon who examines any sheep or carcass which he or she knows or suspects has sheep scab must as soon as possible notify the Divisional Veterinary Manager of that knowledge or suspicion.

(3) When notice is given under paragraph (1) by a person other than the owner or (if different) the keeper of the affected sheep or affected carcass, that person must as soon as possible inform the owner or (if different) the keeper of the affected sheep or affected carcass that notification has been made.

(4) When notice is given under paragraph (2) the veterinary surgeon must as soon as possible inform the owner or (if different) the keeper of the affected sheep or affected carcass that notification has been made.

Restrictions on the movement of sheep

5.—(1) Paragraphs (2) and (3)—

(a) S.I. 2009/2297.

(b) 1966 c.36, as amended by the Veterinary Surgeons' Qualifications (European Recognition) Regulations 2008 (S.I. 2008/1824).

(c) 2000 c.7. Section 15 was amended by the Communications Act 2003 c.21, section 406 and Schedule 17 paragraph 158.

- (a) apply where there is on premises (other than a market or place of exhibition) any sheep or carcase and—
 - (i) the owner or (if different) the keeper of any such sheep or carcase knows or suspects that it has sheep scab; or
 - (ii) notice is given under article 4(3) or (4) to the owner or (if different) the keeper of any affected sheep or affected carcasses on those premises; and
 - (b) continue to apply until paragraph (6) is complied with.
- (2) The owner or (if different) the keeper of sheep on the premises must not move or allow the movement of any sheep off or onto the premises.
- (3) The owner or (if different) the keeper of sheep on the premises must take all reasonable steps necessary for preventing sheep—
- (a) straying off the premises; or
 - (b) coming into contact with sheep outside the premises.
- (4) But paragraph (2) does not apply to moving any sheep—
- (a) for treatment;
 - (b) for slaughter;
 - (c) in accordance with a clearance notice under article 8; or
 - (d) under the authority of a licence issued by an inspector.
- (5) When the owner or (if different) the keeper of the affected sheep elects to treat any sheep, he or she must treat the sheep as soon as possible and, within 2 weeks of the date of treatment, send to the Divisional Veterinary Manager written confirmation that the sheep have been treated, stating—
- (a) the date of treatment;
 - (b) the number of sheep treated; and
 - (c) the treatment used.
- (6) This paragraph is complied with if the Divisional Veterinary Manager receives—
- (a) from the owner or (if different) the keeper of the sheep, written confirmation that—
 - (i) all affected sheep on the premises have been treated, all affected carcasses have been disposed of and 16 days have elapsed since last disposal or treatment; or
 - (ii) all sheep on the premises have been treated with a treatment that provides at least 16 days' residual protection against re-infestation with sheep scab and all affected carcasses have been disposed of; or
 - (b) from a veterinary surgeon, written confirmation that in the veterinary surgeon's opinion—
 - (i) there are no affected sheep or affected carcasses on the premises; and
 - (ii) there have not been any affected sheep or affected carcasses on the premises within the previous 16 days.

Service of notice requiring veterinary enquiry

6.—(1) Where an inspector knows or suspects that there are (or there have been within the previous 16 days) on premises (other than common land, a market or place of exhibition) sheep or carcasses which have sheep scab, the inspector may serve a notice on the owner or (if different) the keeper of any sheep on the premises requiring that person to arrange for a veterinary surgeon to carry out a veterinary enquiry to establish whether there are on the premises sheep or carcasses which have sheep scab.

- (2) Paragraphs (3) and (4)—
 - (a) apply when a notice has been served under paragraph (1); and
 - (b) continue to apply until paragraph (7) is complied with.

(3) The owner or (if different) the keeper of sheep on the premises must not move or allow the movement of any sheep off or onto the premises.

(4) The owner or (if different) the keeper of any sheep on the premises must take all reasonable steps necessary for preventing sheep—

- (a) straying off the premises; or
- (b) coming into contact with sheep outside the premises.

(5) But paragraph (3) does not apply to moving any sheep—

- (a) for treatment;
- (b) for slaughter; or
- (c) under the authority of a licence issued by an inspector.

(6) When the owner or (if different) the keeper of the affected sheep elects to treat any sheep, he or she must treat the sheep as soon as possible and, within 2 weeks of the date of treatment, send to the Divisional Veterinary Manager written confirmation that the sheep have been treated, stating—

- (a) the date of treatment;
- (b) the number of sheep treated; and
- (c) the treatment used.

(7) This paragraph is complied with if the Divisional Veterinary Manager receives—

- (a) from the owner or (if different) the keeper of the sheep, written confirmation that—
 - (i) all affected sheep on the premises have been treated, all affected carcasses have been disposed of and 16 days have elapsed since last disposal or treatment; or
 - (ii) all sheep on the premises have been treated with a treatment that provides at least 16 days' residual protection against re-infestation with sheep scab and all affected carcasses have been disposed of; or
- (b) from a veterinary surgeon, written confirmation that in the veterinary surgeon's opinion—
 - (i) there are no affected sheep or affected carcasses on the premises; and
 - (ii) there have not been any affected sheep or affected carcasses on the premises within the previous 16 days.

Removal of affected sheep from markets or places of exhibition, and cleansing of such premises

7.—(1) Where an inspector knows or suspects that there are sheep which have sheep scab at a market or place of exhibition, the inspector may serve a notice on the owner or (if different) the keeper of the affected sheep, requiring the owner or (if different) the keeper of the affected sheep—

- (a) to remove the affected sheep from the market or place of exhibition; and
- (b) as the owner or (if different) the keeper of the sheep must elect—
 - (i) arrange for them to be slaughtered;
 - (ii) take them directly back to the premises from which the sheep were brought to the market or place of exhibition; or
 - (iii) take them directly to such other premises as may be approved by the inspector for detention and isolation.

(2) Where a notice has been served under paragraph (1) an inspector may serve a notice on the occupier or other person in charge of the market or place of exhibition requiring that person to cleanse such parts of the market or place of exhibition as are specified in the notice within such time as may be so specified.

PART 3

CLEARANCE OF SHEEP FROM COMMON LAND

Clearance notices

8.—(1) If an inspector knows or suspects that there are on common land sheep which have sheep scab, the inspector may publish a notice requiring all persons keeping sheep on the land specified in the notice to move those sheep off that land before the date specified in the notice.

(2) A notice under this article—

- (a) must be publicised in such way as the inspector considers appropriate in order to draw it to the attention of persons affected by it;
- (b) may require that the sheep be treated; and
- (c) may provide that, at least 48 hours before any treatment for sheep scab is carried out, the owner or (if different) the keeper of the sheep must notify the inspector of the time and place that the treatment will be carried out.

Movement of sheep after date specified in the notice

9.—(1) A person must not move sheep onto land specified in a clearance notice for 3 days from the date specified in the notice.

(2) A person must not move sheep onto land specified in a clearance notice after the expiry of 3 days but before the expiry of 3 months from the date specified in the notice unless—

- (a) the sheep have been treated;
- (b) the person moving the sheep onto the land has given the following information to the local authority in writing—
 - (i) confirmation that the sheep have been treated;
 - (ii) the number of sheep that have been treated;
 - (iii) the date or dates of the treatment; and
 - (iv) the product used; and
- (c) the local authority has authorised in writing the movement of those sheep onto the land.

(3) A local authority must not authorise the movement of sheep in accordance with this article unless—

- (a) it has received the information detailed in paragraph (2)(b); and
- (b) if the movement is within 16 days of the date on which the land was cleared, it is satisfied that the sheep have been treated in such a way that they will not be infested or reinfested with psoroptic or sarcoptic mites remaining on the land.

Seizure of sheep by local authority

10.—(1) A local authority may seize and detain—

- (a) any sheep which are found on land specified in a clearance notice while that notice is in force and which have not been authorised to go onto that land by the local authority; and
- (b) any affected sheep living in the local authority area where the owner cannot immediately be identified.

(2) Where sheep are seized and detained under paragraph (1), the owner of the sheep may take possession of the sheep if, within 7 days following seizure, that person—

- (a) establishes his or her right of ownership of the sheep; and
- (b) pays to the local authority the expenses incurred in seizing and detaining the sheep.

(3) In the event that no person has claimed possession of the sheep within 7 days of seizure, the local authority may—

- (a) treat and sell the sheep; or
- (b) cause the sheep to be slaughtered and sell the carcase.

(4) Where a local authority exercises an option under paragraph (3), it must—

- (a) deduct expenses incurred from the proceeds of sale; and
- (b) retain any sums remaining for payment to any person who can establish that the sheep belonged to him or her.

PART 4

GENERAL

Slaughter of affected sheep

11. When affected sheep are to be slaughtered—

- (a) the person transporting them must transport them—
 - (i) directly to a slaughterhouse; and
 - (ii) separately from other sheep; and
- (b) the occupier of the slaughterhouse must ensure that the sheep are slaughtered as soon as possible (and in any event no later than 72 hours) after their arrival at the slaughterhouse.

Marking of sheep

12.—(1) An inspector may, for the purposes of identification, mark any sheep or carcase when exercising powers under this Order.

(2) If so required in writing by an inspector, the owner or (if different) the keeper of sheep kept on any premises must mark such sheep in the manner required by the inspector.

(3) A person must not alter, remove, obliterate, deface or otherwise interfere with any mark or identification applied in accordance with paragraph (1) or (2).

Cleansing of premises

13. Where within the previous 16 days there have been on premises any affected sheep or affected carcasses, an inspector may serve a notice on the owner or (if different) the occupier of the premises requiring that person to cleanse—

- (a) those parts of the premises as may be specified in the notice; and
- (b) any machine, equipment, pen, hurdle, sack, or any other thing used for, or in connection with, the affected sheep or affected carcase,

by such date as may be specified in the notice.

Inspectors' powers

14.—(1) An inspector may, on producing a duly authenticated authorisation if required to do so, enter any premises (excluding any premises used only as a private dwellinghouse) at any reasonable hour for the purpose of ensuring that the provisions of this Order are being complied with.

(2) The inspector may—

- (a) be accompanied by such other persons as the inspector considers necessary;
- (b) inspect the premises and any plant, machinery or equipment;

- (c) inspect or examine any animal or thing;
- (d) take samples;
- (e) seize and destroy anything that may spread sheep scab;
- (f) detain or isolate any animal or thing; and
- (g) carry out any enquiry, examinations and tests.

(3) An inspector may issue, amend, suspend and revoke licences and notices in the execution of this Order.

Inspectors' powers in cases of default

15.—(1) Where a person fails to comply with a requirement of this Order, a licence issued or notice given under it, an inspector may take any steps which the inspector considers necessary—

- (a) to ensure the requirement is met; or
- (b) to rectify the situation so as to prevent the spread of sheep scab.

(2) The person in default must reimburse any reasonable expenses incurred by the local authority or the Scottish Ministers in taking such steps.

Offences by bodies corporate

16.—(1) Where an offence under the Animal Health Act 1981^(a) is committed—

- (a) by a body corporate or a Scottish partnership or other unincorporated association;
- (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,

the individual as well as the offender is guilty of 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, the members;
- (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

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

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

Reasonable assistance

18. Any person required to give reasonable assistance or information to a person acting in the execution of this Order for the performance of the latter person’s functions under it, must do so without delay.

(a) 1981 c.22.

False information

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

Revocation

20. The Sheep Scab Order 1997(a) is revoked.

Transitional provisions

21. Notwithstanding article 20 (revocation), the Sheep Scab Order 1997 continues to have effect in relation to—

- (a) notices published under article 3 of that Order;
- (b) authorisations granted under article 4 of that Order;
- (c) sheep seized and detained under article 5 of that Order; and
- (d) notices served or licences granted by an inspector under that Order,

where the relevant act or omission occurred prior to the coming into force of this Order.

St Andrew's House,
Edinburgh
24th November 2010

RICHARD LOCHHEAD
A member of the Scottish Executive

(a) S.I. 1997/968.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order replaces the Sheep Scab Order 1997 in so far as it extends to Scotland. This Order does not apply in the local government area of the Shetland Islands. The Shetland Islands Council are empowered to make regulations concerning sheep scab by the Sheep Scab (Shetland Islands) Order 2003.

This Order is made under powers in the Animal Health Act 1981.

Part 1 of the Order contains definitions and makes other provisions of an introductory and administrative nature.

Part 2 contains provisions relating to cases of sheep scab and suspected sheep scab, and includes provisions concerning—

- (a) the compulsory notification of sheep scab or suspected sheep scab (article 4);
- (b) the imposition of movement restrictions upon confirmation or suspicion that sheep or carcasses on premises have sheep scab (article 5(1) to (3)) which cease to apply in circumstances detailed in article 5(6). Exception is made for movement for treatment or slaughter, in accordance with clearance notice or under the authority of a licence (article 5(4));
- (c) the power of an inspector, by notice, to require the owner or keeper of affected sheep or carcasses to arrange for a veterinary surgeon to establish whether there are sheep or carcasses which have sheep scab on the premises (article 6(1)). Service of such a notice imposes movement restrictions on sheep (article 6(3)), which restrictions will cease to apply in circumstances detailed in article 6(7). Exception is made for movement for treatment, slaughter or under the authority of a licence (article 6(5));
- (d) the power of an inspector, by notice, to require sheep which are affected or suspected of being affected with sheep scab to be removed from markets or places of exhibition and to require the cleansing of such premises (article 7).

Part 3 contains provisions relating to the clearance of sheep from common land and includes provisions which—

- (a) empower an inspector to require, by notice, the owner or keeper of sheep which are kept on any common land to move those sheep off the land before the date specified in the notice (article 8), and prohibit the movement back onto the land specified in the clearance notice for 3 months unless the sheep have been treated (article 9); and
- (b) empower the local authority to seize and dispose of such sheep if unable to establish ownership and also affected sheep living in the local authority area where the owner cannot immediately be identified (article 10).

Part 4 contains general provisions which—

- (a) make provision regarding the slaughter of affected sheep (article 11);
- (b) enable an inspector to mark sheep or require the keeper of sheep to mark the sheep (article 12);
- (c) empower an inspector to require the cleansing of premises (article 13);
- (d) confer powers of entry and inspection and powers in cases of default on inspectors (articles 14 and 15);
- (e) make provision regarding offences committed by bodies corporate (article 16);
- (f) provide for the enforcement of the Order by the local authority (article 17); and
- (g) impose a duty to provide reasonable assistance (article 18), and not to provide false information to persons acting in execution of the Order (article 19).

The Sheep Scab Order 1997 is revoked (article 20) and transitional provisions made (article 21).

Failure to comply with the Order is an offence under section 73 of the Animal Health Act 1981 and is punishable in accordance with section 75 of that Act.

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

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