WELSH STATUTORY INSTRUMENTS

2011 No. 692 (W.104)

ANIMALS, WALES

ANIMAL HEALTH

The Tuberculosis (Wales) Order 2011

Made - - - -	*8 March 2011*
Laid before the National Assembly for Wales - -	*9 March 2011*
Coming into force - -	*31 March 2011*

The Welsh Ministers make the following Order in exercise of powers conferred by sections 1, 7(1), 8(1), 15(4), 25, 32(2), 34(7), 83(2) and 88(2) of the Animal Health Act 1981(**1**).

PART 1

General

Title, commencement and application

1. The title of this Order is the Tuberculosis (Wales) Order 2011; it applies in relation to Wales and comes into force on 31 March 2011.

Interpretation

2. In this Order—

"the Act" ("*y Ddeddf*") means the Animal Health Act 1981;

"affected animal" ("*anifail yr effeithiwyd arno*") means a non-bovine animal which is affected with tuberculous emaciation, or is excreting or discharging tuberculous material, or is affected with a chronic cough, or shows any other clinical signs of tuberculosis;

(**1**) 1981 c. 22. The meaning of "the Minister" is given by section 86(1). Functions under the Act are exercisable by the Welsh Ministers (in relation to Wales), by virtue of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I.1999/672); the National Assembly for Wales (Transfer of Functions) Order 2004 (S.I. 2004/3044) and section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).

"approved disinfectant" ("*diheintydd cymeradwy*") means a disinfectant that is approved for use against tuberculosis in accordance with the Diseases of Animals (Approved Disinfectants) (Wales) Order 2007(**2**);

"keeper" ("*ceidwad*") means any person who owns or is responsible for a non-bovine animal whether on a permanent or temporary basis, but it does not include a person responsible for a non-bovine animal solely because the person is transporting it;

"non-bovine animal" ("*anifail nad yw'n anifail buchol*") means a deer, goat, alpaca, guanaco, llama or vicuna;

"premises" ("*mangre*") includes—

(a) land or buildings; and

(b) any other place including, in particular, a vehicle, a vessel, an aircraft, or a tent or other moveable structure;

"relevant test" ("*prawf perthnasol*") means a diagnostic test for tuberculosis which is approved by the Welsh Ministers;

"suspected animal" ("*anifail dan amheuaeth*") means a non-bovine animal which is suspected of being affected with tuberculosis and includes a non-bovine animal that has been in close contact with such a non-bovine animal;

"tuberculosis" ("*twbercwlosis*") means infection with *Mycobacterium bovis (M.bovis)*; and

"veterinary improvement notice" ("*hysbysiad gwella milfeddygol*") means a notice served under article 8 (veterinary improvement notice).

Revocations and amendments

3.—(1) The following Orders are revoked insofar as they apply in relation to Wales—

(a) the Tuberculosis (Deer) Order 1989(**3**); and

(b) the Tuberculosis (Deer) Notice of Intended Slaughter and Compensation Order 1989(**4**).

(2) In the Tuberculosis (Wales) Order 2010(**5**)–

(a) in article 12(1) (tuberculosis testing) for "by" substitute "before"; and

(b) in article 22(1) (isolation of M. Bovis in a laboratory) for "Veterinary Laboratories Agency" substitute "Welsh Ministers".

Savings and transition

4.—(1) Any notice or licence issued, or approval or consent granted, under the Tuberculosis (Deer) Order 1989 or the Tuberculosis (Deer) Notice of Intended Slaughter and Compensation Order 1989 and which has effect at the coming into force of this Order remains in force as if it were a notice or licence issued, or approval or consent granted, under this Order.

(2) This Order applies in relation to a notice served under the Tuberculosis (Deer) Notice of Intended Slaughter and Compensation Order 1989 as it applies to a notice served under this Order.

(**2**) S.I. 2007/2803 (W.236).
(**3**) S.I. 1989/878.
(**4**) S.I. 1989/1316.
(**5**) S.I. 2010/1379 (W.122).

PART 2

Testing and Movement

Identification

5. The keeper of a deer, alpaca, guanaco, llama or vicuna must mark or identify it in a manner approved by the Welsh Ministers.

Notification of disease in non-bovine animals

6.—(1) Any person who—

(a) has possession or charge of any non-bovine animal which the person suspects is or may be an affected animal;

(b) in the course of the person's practice as a veterinary surgeon examines a non-bovine animal which the person suspects is or may be an affected animal; or

(c) in the course of the person's duties inspects, for any purpose, a non-bovine animal which the person suspects is or may be an affected animal,

must notify the Welsh Ministers immediately.

(2) Any person who has possession or charge of any non-bovine animal which the person suspects is or may be an affected animal must, pending conclusion of the veterinary inquiry under article 7 and the service of any notice under that article, immediately–

(a) detain that non-bovine animal on the premises where it then is;

(b) isolate it from other animals to the extent specified in the notice; and

(c) adopt precautions with respect to milk produced by that non-bovine animal as if a notice under article 7 had already been served.

Veterinary inquiry as to the existence of disease

7.—(1) Where a veterinary inspector reasonably believes an affected animal or a suspected animal (other than a reactor) or a carcase of a non-bovine animal that is affected with or suspected of being affected with tuberculosis is present on any premises, the veterinary inspector must, with all practicable speed, take such steps as may be necessary to establish whether it is in fact an affected or suspected animal or carcase.

(2) A veterinary inspector may, for the purposes of this article, examine any non-bovine animal or carcase of a non-bovine animal on the premises and take such samples from any such non-bovine animal or carcase or carry out such tests as may be required for the purpose of diagnosis.

(3) Where a veterinary inspector has examined a non-bovine animal and is of the opinion that it is an affected animal or suspected animal, the veterinary inspector must serve a notice on the keeper of that non-bovine animal requiring the keeper to–

(a) detain that non-bovine animal in accordance with the requirements of the notice and keep it isolated from other animals to the extent specified in the notice;

(b) where appropriate, take steps to ensure that the milk produced by the non-bovine animal is not mixed with other milk and is boiled or otherwise sterilised and that any utensil with which such milk has been in contact before it is so treated is thoroughly cleansed and scalded with steam or boiling water before the utensil is used again; and

(c) ensure that no animal is moved on to or off the premises or such part of the premises as is specified in the notice except under the authority of a licence issued by an inspector.

(4) In this article "reactor" ("*adweithydd*") means a non-bovine animal that gives rise to a reaction to a relevant test which is consistent with its being affected with tuberculosis.

Veterinary improvement notice

8.—(1) A veterinary inspector may serve a notice ("veterinary improvement notice") ("*hysbysiad gwella milfeddygol*") on the keeper of a non-bovine animal requiring the keeper, by a date specified in the notice, to do things or to refrain from doing things for the purpose of preventing the spread of disease and, in particular, may impose any of the requirements mentioned in paragraph (2).

(2) The requirements that may be imposed by means of a veterinary improvement notice include —

(a) erecting fences, gates and stiles;

(b) adopting effective methods of excluding groups of animals from specified parts of the premises;

(c) protecting silage, feed storage and feeding areas from wildlife including birds;

(d) taking reasonable steps to ensure that people who enter the keeper's land take reasonable precautions against the spread of disease.

Tuberculosis testing

9.—(1) The Welsh Ministers may serve on the keeper of a non-bovine animal a notice ("test notice") ("*hysbysiad prawf*") requiring the keeper to have any such non-bovine animal tested for tuberculosis with a relevant test before a date specified in the notice.

(2) The keeper of any non-bovine animal must comply with all reasonable requirements of an inspector with a view to facilitating—

(a) the identification and examination of that non-bovine animal by that inspector;

(b) the application to it, or the reading, of any relevant test; or

(c) the removal of that non-bovine animal for slaughter,

and in particular must arrange at the keeper's own expense for the collection, penning and securing of any such non-bovine animal if so required.

(3) Where a relevant test has been applied to a non-bovine animal, no person may move that non-bovine animal from the premises or the part of the premises on which it is kept unless—

(a) the movement is under the authority of a licence issued by a veterinary inspector; or

(b) the results of the test have been read by an inspector and are negative.

(4) Without prejudice to article 12, where the keeper has failed to have a non-bovine animal tested as required by a test notice, the Welsh Ministers may, in relation to the premises where the non-bovine animal is kept, by notice served on the keeper, prohibit the movement of non-bovine animals, or of such non-bovine animals as are specified in the notice, on to or off the premises , or any part of those premises, as are specified in the notice, subject to movement that is allowed under the authority of a licence issued by an inspector.

(5) Without prejudice to any proceedings for an offence under section 73 of the Act by virtue of this Order, where the keeper has failed to have a non-bovine animal tested as required by a test notice, the Welsh Ministers may take or cause to be taken all the steps that may be necessary to facilitate the examination, testing and removal of that non-bovine animal and the Welsh Ministers may recover the amount of any expenses that are reasonably incurred by them from the keeper.

(6) Where—

(a) the keeper has failed to have a non-bovine animal tested as required by a test notice; and

(b) for the reasons set out in paragraph (7) the non-bovine animal has not been tested in accordance with paragraph (5),

the non-bovine animal must be treated as being affected with tuberculosis for the purposes of section 32 of the Act.

(7) The reasons mentioned in paragraph (6) are those of practicability and include difficulties in gathering the non-bovine animal safely due to its wildness or the nature of the terrain on which it is kept.

Tuberculosis test records

10.—(1) Where a relevant test has been applied to a non-bovine animal, the Welsh Ministers must, as soon as practicable after the results of the test have been read by an inspector, give the keeper of that non-bovine animal a written record of the results.

(2) Paragraph (1) does not apply to non-bovine animals in respect of which movement is, or remains, prohibited under this Order following the test.

(3) The keeper must—

(a) retain the record of the results of the test for a period of 3 years and 60 days beginning with the day following the date of injection of tuberculin; and

(b) produce such record when requested to do so by an inspector.

Prohibitions

11.—(1) No person may vaccinate a non-bovine animal against tuberculosis without the written consent of the Welsh Ministers.

(2) No person may treat a non-bovine animal for tuberculosis without the written consent of the Welsh Ministers.

(3) No person may perform a test for tuberculosis on a non-bovine animal except with the written consent of the Welsh Ministers and a person to whom any such consent is given must report the results immediately to the Welsh Ministers.

(4) No person may interfere with or obstruct the application or the reading of a relevant test.

Isolation and prohibition on movement of non-bovine animals

12. An inspector may, for the purpose of controlling or preventing the spread of tuberculosis, by notice served on the keeper of non-bovine animals kept on such premises as are specified in the notice–

(a) require such non-bovine animals as are specified in the notice to be isolated from other animals to the extent specified in the notice; and

(b) prohibit the movement of non-bovine animals, or of such non-bovine animals as are specified in the notice, on to or off such premises, except under the authority of a licence issued by an inspector.

Notification of intended slaughter of non-bovine animals

13.—(1) Where the Welsh Ministers intend to cause a non-bovine animal to be slaughtered under section 32 of the Act in its application to tuberculosis, an inspector must serve a notice on the keeper of the non-bovine animal informing the keeper of the intended slaughter and requiring the keeper to detain the non-bovine animal pending such slaughter, or its removal for such slaughter, on such part of the premises as is specified in the notice and to isolate it to the extent specified in the notice.