WELSH STATUTORY INSTRUMENTS

2008 No. 1270 (W.129)

ANIMALS, WALES

ANIMAL HEALTH

The Specified Animal Pathogens (Wales) Order 2008

Made - - - -	*7 May 2008*
Coming into force - -	*10 May 2008*

The Welsh Ministers make this Order in exercise of the powers conferred by sections 1, 7, 35(1), 87(2) and (5)(a) and 88(2) and (4)(a) of the Animal Health Act 1981(**1**).

Title, application and commencement

1. The title of this Order is the Specified Animal Pathogens (Wales) Order 2008. It applies in relation to Wales and comes into force on 10 May 2008.

Extension of the definition of "animal", "poultry" and "disease"

2. For the purposes of the Animal Health Act 1981 in relation to this Order—

(a) the definition of "animal" ("*anifail*") is extended so as to comprise any kind of mammal except man, and any kind of four-footed beast which is not a mammal;

(b) the definition of "poultry" ("*dofednod*") is extended so as to comprise any species of bird; and

(c) the definition of "disease" ("*clefyd*") is extended so as to comprise any disease of animals and poultry which may be caused by one or more specified animal pathogens.

Interpretation

3.—(1) In this Order—

"animal" ("*anifail*") includes poultry;

"carrier" ("*cludydd*") means any living creature except man which may carry or transmit a specified animal pathogen or the tissue, cell culture, body fluid, excreta, carcase or part of

(**1**) 1981 c. 22. Functions of the Minister and the Secretary of State transferred to the National Assembly for Wales by S.I. 1999/672 and S.I. 2004/3044. Functions of the National Assembly for Wales are exercisable by the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006.

a carcase of such creature by or by means of which a specified animal pathogen may be transmitted or carried;

"premises" ("*mangre*") includes any land, building or other place; and

"specified animal pathogen" ("*pathogen anifail penodedig*") means an animal pathogen listed in Schedule 1, including—

(a) intact pathogens;

(b) pathogens which have been attenuated or genetically modified by any means; and

(c) any nucleic acid derived from an animal pathogen listed in that Schedule that could produce that pathogen when introduced into a biological system in which the nucleic acid is capable of replicating.

(2) In this Order "inspector" ("*arolygydd*") does not include an inspector appointed by a local authority.

(3) A licence or notice issued under this Order must be in writing, may be subject to conditions and may be amended, suspended or revoked by notice in writing at any time.

Prohibitions in relation to specified animal pathogens

4.—(1) No person may have in their possession—

(a) any animal pathogen specified in Part 1 of Schedule 1; or

(b) any carrier in which they know such a pathogen is present,

except under the authority of a licence issued by the Welsh Ministers.

(2) No person may deliberately introduce into any animal any animal pathogen specified in either Part 1 or Part 2 of that Schedule, except under the authority of a licence issued by the Welsh Ministers.

(3) A person must immediately notify the Welsh Ministers if that person—

(a) has possession of any thing in respect of which they have reasonable grounds for suspecting that an animal pathogen specified in Part 1 of Schedule 1 is present, and

(b) does not have a licence in respect of that pathogen.

Exceptions

5.—(1) Article 4 does not apply to any person who is transporting a pathogen or carrier and who does not own or have any rights in that pathogen or carrier.

(2) Article 4 does not apply in relation to any pathogen or carrier contained in a product—

(a) authorised to be placed on the market in the United Kingdom as a veterinary medicinal product, or authorised to be administered to an animal in the United Kingdom;

(b) authorised to be placed on the market under the Medicines for Human Use (Marketing Authorisations etc) Regulations 1994(**2**);

(c) licensed in accordance with the provisions of section 7(2) of the Medicines Act 1968(**3**).

Powers of inspectors

6. In addition to the powers set out in the Animal Health Act 1981, an inspector enforcing this Order has the powers set out in Schedule 2.

(**2**) S.I. 1994/3144.
(**3**) 1968 c. 67.

Improvement notices

7.—(1) If an inspector is of the opinion that a person—

(a) is carrying on any activity contravening one or more of the conditions of a licence issued under this Order, or

(b) has contravened one or more of those conditions in circumstances that make it likely that the contravention will continue or be repeated,

that inspector may serve on that person a notice ("an improvement notice").

(2) An improvement notice must—

(a) specify the conditions of the licence that have been contravened;

(b) explain the reasons why the inspector is of that opinion; and

(c) require that person to remedy the contravention or the matters occasioning it, within such period as may be specified in the notice.

(3) A notice must include directions as to the measures to be taken to remedy any contravention or matter to which the notice relates; and any such directions may be framed so as to afford the person on whom the notice is served a choice between different ways of remedying the contravention or matter.

Prohibition notices

8.—(1) This paragraph applies to any activities for which a licence is required under this Order.

(2) If an inspector is of the opinion that the activities involve or may involve a risk of serious harm to animals, the inspector may serve on that person a notice ("a prohibition notice").

(3) A prohibition notice must—

(a) state that the inspector is of that opinion;

(b) specify the matters which in that inspector's opinion give or may give rise to a risk of serious harm to animals; and

(c) direct that the activities to which the notice relates must not be carried on unless the matters specified in the notice have been remedied.

(4) A direction contained in a prohibition notice under sub-paragraph (3)(c) takes effect—

(a) at the end of the period specified in the notice; or

(b) if the notice so declares, immediately.

Appeals against improvement and prohibition notices

9.—(1) A person on whom an improvement or prohibition notice is served may within 21 days appeal against the notice to a person appointed for the purpose by the Welsh Ministers.

(2) The appointed person must consider the appeal and any representations made by the Welsh Ministers and report in writing, with a recommended course of action, to the Welsh Ministers.

(3) The Welsh Ministers may then either cancel the notice or confirm it, with or without modifications, and must notify the appellant, together with the reasons for their decision.

Licences

10. No person may contravene a licence condition imposed on that person.

Enforcement

11. This Order is enforced by the Welsh Ministers.

Revocations

12. The following Orders are revoked—

(a) the Specified Animal Pathogens Order 1998(**4**) in its application to Wales; and

(b) the Specified Animal Pathogens (Amendment) (Wales) Order 2006(**5**).

Elin Jones
Minister for Rural Affairs, one of the Welsh Ministers

7 May 2008

(**4**) S.I. 1998/463.
(**5**) S.I. 2006/2981 (W.272).