STATUTORY INSTRUMENTS

1972 No. 1538 (S.119)

ANIMALS

DISEASES OF ANIMALS

The Brucellosis Compensation (Scotland) Order 1972

Made - - -	12*th October* 1972
Laid before Parliament	20*th October* 1972
Coming into Operation	1*st November* 1972

In exercise of the powers conferred by sections 17(3) and 19(7) of the Diseases of Animals Act 1950(**a**) and now vested in me (**b**) and as read with the Diseases of Animals (Extension of Definitions) Order 1971(**c**) and of all other powers enabling me in that behalf, with the approval of the Treasury, I hereby make the following order:—

Citation and commencement

1. This order, which may be cited as the Brucellosis Compensation (Scotland Order 1972, shall come into operation on 1st November 1972.

Interpretation

2.—(1) In this order, unless the context otherwise requires—

"accredited herd" means a herd which to the satisfaction of the Secretary of State (in relation to Scotland) or of the Minister (in relation to England and Wales) either—

(*a*) has been found to be free from brucellosis by means of a series of diagnostic tests carried out by him or on his behalf and has been, since the date of commencement of such tests, the subject of adequate precautions against the introduction or re-introduction and consequent spreading of brucellosis; or

(*b*) has been wholly constituted by the transfer of animals from other accredited herds in Great Britain or from such similar herds outside Great Britain as the Secretary of State, in relation to herds in Scotland, or the Minister, in relation to herds in England and Wales, may either generally or in any special case allow, and has been, since being so constituted, the subject of such precautions as aforesaid;

"the Act" means the Diseases of Animals Act 1950, as amended or extended by any other Act.

"affected animal" means a bovine animal which is affected with brucellosis;

"bovine animal" means a bull, cow, heifer or calf, but does not include a steer;

(**a**) 1950 c. 36. (**b**) S.I. 1955/958 (1955 I, p. 1184).
(**c**) S.I. 1971/531 (1971 I, p. 1530).

"brucellosis" means the disease caused by *brucella abortus*, otherwise known as epizootic abortion or contagious abortion;

"the Minister" means the Minister of Agriculture, Fisheries and Food;

"reactor" means an animal which, when tested by or on behalf of the Secretary of State to ascertain whether it is suffering from brucellosis, gives rise to a reaction consistent with its being affected with that disease;

"steer" means any castrated bull or male calf aged six months or over.

(2) For the purpose of this order the animals comprised in a herd include—

(*a*) any animal which is isolated on the premises on which the herd is kept for the purpose of its being incorporated in the herd, and

(*b*) any animal which is temporarily removed from the herd.

(3) The Interpretation Act 1889(**a**) shall apply for the interpretation of this order as it applies for the interpretation of an Act of Parliament.

Compensation for, and ascertainment of value of, bovine animals slaughtered for brucellosis

3.—(1) Where the Secretary of State causes a bovine animal to be slaughtered under the powers conferred by section 17 of the Act in its application to brucellosis, the compensation payable by him shall, subject to article 4 of this order, be the amount determined in accordance with the following provisions of this article.

(2) The said compensation shall be—

(*a*) where the slaughtered animal is an affected animal or a reactor which is comprised in an accredited herd or in a herd which when last tested for brucellosis by or on behalf of the Secretary of State was an accredited herd the sum of £180 or an amount equal to three-fourths of the market value of the animal, whichever is the less;

(*b*) where the slaughtered animal is an affected animal or reactor which is not comprised in such a herd as is referred to in sub paragraph (2)(*a*) above the sum of £240 or an amount equal to its market value, whichever is the less;

(*c*) where the slaughtered animal is neither an affected animal nor a reactor an amount equal to the market value of the animal.

(3) Notwithstanding the provisions of article 4 of the Diseases of Animals (Ascertainment of Compensation) Order 1959(**b**), the market value of a bovine animal which the Secretary of State proposes to cause to be slaughtered shall, for the purposes of payment of compensation under this order, be determined by agreement between the Secretary of State and the owner of the animal, or by a valuer appointed by the Secretary of State and the said owner and paid by the Secretary of State, or, failing such agreement or appointment, by a valuer nominated by the President of the Institute of Auctioneers and Appraisers in Scotland and paid by the Secretary of State, and such valuer shall give to the Secretary of State and the owner a certificate in writing of the said value.

In this paragraph a reference to a valuer shall be construed as a reference to an individual, and not to a company or firm or to two or more persons jointly.

(4) For the purposes of this article, the market value of a bovine animal is

(**a**) 1889 c. 63. (**b**) S.I. 1959/1335 (1959 I, p. 227).

the price which might reasonably have been obtained for it at the time of valuation from a purchaser in the open market—

(*a*) in the case of an animal which is comprised in an accredited herd, or in a herd which when last tested for brucellosis by or on behalf of the Secretary of State was an accredited herd, if the animal were not an affected animal or a reactor or, as the case may be, an animal which had been exposed to the infection of brucellosis, and were not comprised in a herd in which that infection was present;

(*b*) in the case of an animal which is not comprised in such a herd as is referred to in sub paragraph 4(*a*) above, if the animal had not been tested for brucellosis or comprised in a herd which had been so tested.

Compensation for "Control Animals"

4.—(1) Notwithstanding anything in article 3 of this order, the compensation payable in respect of the slaughter of an animal to which this article applies, being an animal which the Secretary of State causes to be slaughtered under the powers conferred by section 17 of the Act in its application to brucellosis shall consist only of the value of the carcase of the animal, less those expenses which may be reasonably incurred by the Secretary of State in relation to the animal before slaughter in relation to the slaughter of the animal and in relation to the subsequent disposal of the carcase thereof.

(2) This article applies to any bovine animal (in this paragraph referred to as the "control animal") in respect of which there exists a condition in any order under the Act allowing any other bovine animal (in this paragraph referred to as "the imported animal") to be landed in Scotland that the control animal shall be placed with the imported animal during quarantine, there to serve as a control in relation to the imported animal as respects any disease of bovine animals.

Gordon Campbell,
One of Her Majesty's
Principal Secretaries of State.

St. Andrew's House,
Edinburgh.
10th October 1972.

We approve.
12th October 1972.

V. H. Goodhew,
P. L. Hawkins,
Two of the Lords Commissioners of
Her Majesty's Treasury.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order prescribes the scale of compensation payable for cattle slaughtered by the Secretary of State on account of brucellosis under section 17 of the Diseases of Animals Act 1950. The slaughtered cattle in respect of which compensation will be payable under the order will be either animals which are affected with brucellosis, animals which have shown a reaction to a diagnostic test carried out by or on behalf of the Secretary of State consistent with their being affected with the disease, or animals which have been exposed to the infection of brucellosis.

The scale of compensation prescribed for affected animals and reactors distinguishes between cattle according to whether they are comprised in accredited herds or not. If the cattle are not comprised in accredited herds compensation will be payable at full market value, subject to a limit of £240. In the case of cattle in accredited herds, compensation will be limited to three-quarters of their market value, subject to a maximum of £180. So far as animals other than affected animals or reactors are concerned, compensation will be payable at full market value without limitation, whether they come from accredited or non-accredited herds.

The order contains an exception for cattle (referred to as "control animals") which are required to serve as controls in connection with the importation of cattle from overseas. Compensation on slaughter of such animals is limited to their carcase value, less the Secretary of State's reasonable expenses.

Finally, the order specifies the manner in which the market value of cattle is to be determined, and provides that, in default of agreement between the Secretary of State and the owner, the question shall be referred for determination to a valuer appointed by the President of the Institute of Auctioneers and Appraisers in Scotland.

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