STATUTORY INSTRUMENTS

1965 No. 1981

ANIMALS

DISEASES OF ANIMALS

The Markets (Protection of Animals) (Amendment) Order 1965

Made - - - - 17*th November* 1965

Coming into Operation—

Articles 3(1), 4 *and* 5 1*st July* 1966

Remainder - - 1*st December* 1965

The Minister of Agriculture, Fisheries and Food and the Secretary of State, acting jointly, by virtue and in exercise of the powers vested in them by sections 1 and 20 of the Diseases of Animals Act 1950(a), as read with the Transfer of Functions (Animal Health) Order 1955(b) and amended by section 14 of the Agriculture (Miscellaneous Provisions) Act 1963(c), and of all other powers enabling them in that behalf, hereby order as follows :—

Citation, extent and commencement

1. This order, which may be cited as the Markets (Protection of Animals) (Amendment) Order 1965, shall apply throughout Great Britain and shall come into operation on 1st December 1965, except for articles 3(1), 4 and 5, which shall come into operation on 1st July 1966.

Interpretation

2.—(1) This order shall be construed as one with the Markets (Protection of Animals) Order 1964(d), referred in this order as "the principal order".

(2) In this order, unless the context otherwise requires, "approved accommodation" means covered accommodation approved by the appropriate Minister in accordance with article 3 hereof.

(3) The Interpretation Act 1889(e) applies to the interpretation of this order as it applies to the interpretation of an Act of Parliament.

Provision of covered accommodation for calves, dairy cows in milk and pigs

3.—(1) Subject to the provisions of this article, the market authority of every market in which calves, dairy cows in milk or pigs are exposed for sale shall, for the purpose of protecting such animals from unnecessary suffering by exposure to the weather, including excessive exposure to direct sunlight, while exposed for sale or awaiting removal, provide or cause to be provided for them in the market covered accommodation approved by the appropriate Minister in accordance with the following provisions of this article.

(2) The appropriate Minister may in pursuance of an application in such form and containing such particulars as he shall from time to time require—

(*a*) approve existing accommodation for the purposes of the preceding paragraph; or

(*b*) approve a proposal to provide accommodation for such purposes, including a proposal to modify or extend existing accommodation.

(a) 14 Geo. 6. c. 36. For change of title of the Minister, see S.I. 1955/554 (1955 I, p. 1200).
(b) S.I. 1955/958 (1955 I, p. 1184).
(c) 1963 c. 11.
(d) S.I. 1964/1055 (1964 II, p. 2332).
(e) 52 & 53 Vict. c. 63.

(3) Before giving his approval the appropriate Minister shall be satisfied that the accommodation is, or (in the case of a proposal) when provided will be, adequate in design, construction and extent for the purpose referred to in paragraph (1) of this article, having regard to the location of the market, the climatic conditions generally prevailing in the district in which the market is situated, and the maximum number of calves, dairy cows in milk and pigs normally exposed for sale and awaiting removal in the market at any one time.

(4) The appropriate Minister may limit the duration of his approval, and may attach such conditions to it as he thinks fit.

(5) Approval of a proposal to provide accommodation shall not be deemed to be approval of that accommodation for the purposes of paragraph (1) of this article, but where the appropriate Minister has approved such a proposal and has been notified in writing by the market authority that the proposed accommodation has been provided, he shall, if he is satisfied that such accommodation is in accordance with the terms of the approved proposal, approve the accommodation, subject only to the provisions of paragraph (6) hereof.

(6) The appropriate Minister may at any time by notice in writing to the market authority revoke his approval of any accommodation or proposal to provide accommodation if he is satisfied that the accommodation no longer is, or (in the case of a proposal) when provided would no longer be, adequate for the purpose referred to in paragraph (1) of this article or that any condition of the approval has not been complied with.

(7) If the appropriate Minister proposes to refuse, limit the duration of, attach conditions to or revoke any approval (whether of existing accommodation or of a proposal) under the provisions of this article, he shall before reaching a decision on the proposal—

(*a*) give the market authority notice of his proposal in writing, stating the grounds on which it is based, and

(*b*) if the authority so desire, afford to the authority an opportunity of being heard by a person appointed by him for the purpose, and

(*c*) if the authority is so heard, consider the report of that person.

(8) The appropriate Minister may at the request of a market authority approve accommodation in accordance with the provisions of this article in relation to any part of a market as though that part were itself a market, and where such approval has been given that part of the market and the remainder of the market shall be deemed to be separate markets for the purposes of this and the principal order.

(9) The appropriate Minister may, where he considers that in the case of any particular market there are exceptional circumstances, grant a certificate exempting the market authority from the requirements of paragraph (1) of this article, in so far as they relate to that market, for such period and subject to such conditions as may be stated in the certificate, and he may revoke such certificate at any time by notice in writing to the market authority.

Availability of approved accommodation

4. The market authority of every market in which approved accommodation is provided, and every person for the time being in charge of such a market, shall, whenever calves, dairy cows in milk or pigs are exposed for sale in the market, take all reasonable steps to ensure that—

(*a*) there is displayed in a conspicuous place in the market a plan or other convenient means of indicating to users of the market the identity and location of such approved accommodation, and

(*b*) there is available for such animals the whole of such accommodation,

or a sufficient part to accommodate all such animals exposed for sale or awaiting removal in the market.

Calves, dairy cows in milk and pigs to be kept in approved accommodation

5.—(1) Article 6 of the principal order (which requires calves, dairy cows in milk and pigs to be kept under cover of a roof where roofed accommodation is available) shall not apply to a market in which approved accommodation is provided, and the following provisions of this article shall apply instead.

(2) Subject to the provisions of article 5 of the principal order, no person shall permit a calf, dairy cow in milk or pig exposed for sale or awaiting removal to be kept in a market otherwise than in approved accommodation where such accommodation is available to him in the market for the purpose.

(3) In determining whether approved accommodation is available to a person for the purposes of the last foregoing paragraph, the following classes of accommodation shall be disregarded :—

(*a*) accommodation which is already occupied by calves, dairy cows in milk, pigs or unfit animals of any kind;

(*b*) accommodation for the use of which the consent of another person is required, and either it has not been reasonably possible to ask for such consent or such consent has been asked for and withheld;

(*c*) accommodation the identity or location of which is not known to him and cannot reasonably be ascertained by him; and

(*d*) accommodation in a lair, if the animal for which approved accommodation is required is being exposed for sale.

(4) Nothing in this article shall compel animals of different species to be kept in the same pen or shall affect—

(*a*) the necessary movement of an animal within a market; or

(*b*) the exposure for sale of an animal in an open sale ring for such period as is reasonably necessary to enable it to be sold by auction.

Minor amendments to principal order

6. The principal order shall be varied as follows :—

(*a*) In article 2(1) (which defines "the appropriate Minister" as meaning, in relation to markets in England, the Minister of Agriculture, Fisheries and Food), after the word "England" there shall be inserted the words "and Wales".

(*b*) In article 3(3) (which makes it an offence to prevent or attempt to prevent steps being taken to protect an animal from suffering), before the word "prevents" there shall be inserted the word "unlawfully".

(*c*) For article 5(3) (which requires every bull to be kept separate from other animals and secured by the head or neck) there shall be substituted the following paragraph :—

"(3) Every bull over the age of ten months and every boar over the age of six months shall be effectively separated from other animals or (in the case of a bull) secured by the head or neck."

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 16th November 1965.

(L.S.)

Frederick Peart,
Minister of Agriculture, Fisheries and Food.

Given under the Seal of the Secretary of State for Scotland on 17th November 1965.

(L.S.)

William Ross.
Secretary of State for Scotland.

EXPLANATORY NOTE

(This Note is not part of the order.)

This order requires market authorities to provide covered accommodation in their markets to protect calves, dairy cows in milk and pigs from the weather, with effect from 1st July 1966. The accommodation must have been approved as adequate by the Minister of Agriculture, Fisheries and Food (if in England or Wales) or by the Secretary of State (if in Scotland). The market authority must also see that the accommodation is made available, and identified in a conspicuous place by means of a plan or otherwise, for the benefit of users of the market. It will be an offence to permit calves, dairy cows in milk or pigs to be exposed for sale in the market, or kept there afterwards, otherwise than in approved accommodation if such accommodation is available. Where approved accommodation is provided in a market under this order, the provisions of article 6 of the Markets (Protection of Animals) Order 1964 (which requires calves, dairy cows in milk and pigs to be kept in roofed accommodation, if available) will cease to apply to the market. There are also some minor and technical amendments of the 1964 order.

This order provides for the approval of accommodation at any time after 30th November 1965, and a market authority is given a right to make representations against a proposed adverse decision to a person appointed for the purpose. The Minister or Secretary of State may in exceptional circumstances issue a certificate exempting a market authority from the requirement to provide approved accommodation, subject to such conditions and for such period as may be stated in the certificate.