STATUTORY INSTRUMENTS

1964 No. 1152 (S. 78)

ANIMALS

DISEASES OF ANIMALS

The Tuberculosis (Compensation) (Scotland) Order 1964

Made - - - -	21*st July* 1964
Laid before Parliament	29*th July* 1964
Coming into Operation	1*st August* 1964

The Secretary of State and the Minister of Agriculture, Fisheries and Food acting jointly, in exercise of the power conferred on them by section 85(1) of the Diseases of Animals Act 1950(a) and of all other powers them enabling, as respects the revocation of the Orders mentioned in Article 2 of the following Order, and (save for such revocation) the Secretary of State in exercise of the powers conferred on him by sections 17(3) and 19(7) of the said Act, and of all other powers him enabling, with the approval of the Treasury, hereby respectively make the following Order :—

Citation, extent and commencement

1. This Order, which may be cited as the Tuberculosis (Compensation) (Scotland) Order 1964, applies to Scotland and shall come into operation on 1st August 1964.

Revocation

2. Articles 6 and 7 of the Tuberculosis Order of 1938, as amended(b), (being the provisions thereof which relate to compensation), and the whole of the Tuberculosis (Compensation) Order 1950(c), as amended(d), in their application to Scotland, are hereby revoked, but without prejudice to any rights accrued thereunder before the coming into operation of this Order.

Interpretation

3.—(1) In this Order—

" the Act " means the Diseases of Animals Act 1950 ;

" affected animal " means a cow which is affected with tuberculosis of the udder or is giving tuberculous milk, or a bovine animal which is affected with tuberculous emaciation, or is excreting or discharging tuberculous material, or is affected with a chronic cough and shows clinical signs of tuberculosis ;

" bovine animal " means a bull, cow, steer, heifer or calf ;

" cow " includes a heifer that has calved or is in milk.

(2) The Interpretation Act 1889(e) shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament, and as if this Order and the Orders hereby revoked were Acts of Parliament.

(a) 14 Geo. 6. c. 36.
(b) S.R. & O. 1938/165, 1946/122 (Rev. II, p. 658; 1938 I, p. 293; 1946 I, p. 39).
(c) S.I. 1950/2005 (1950 I, p. 186).
(d) S.I. 1959/1460, 1960/1714 (1959 I, p. 242; 1960 I, p. 310).
(e) 52 & 53 Vict. c. 63.

Compensation for, and ascertainment of value of, bovine animals slaughtered pursuant to section 17 of the Act of 1950

4.—(1) Where under the power conferred by section 17 of the Act the Secretary of State causes a bovine animal to be slaughtered because—

(*a*) it is an affected animal;

(*b*) it has reacted to a tuberculin test; or

(*c*) it has been exposed to the infection of tuberculosis by contact with any such animal as is mentioned in heads (*a*) or (*b*) of this paragraph,

the compensation payable by him for the animal shall, subject to Article 5 of this Order, be the amount determined in accordance with the following provisions of this Article.

(2) The said compensation shall be—

(*a*) in the case of any such animal as is mentioned in heads (*a*) or (*b*) of the preceding paragraph the sum of £120 or an amount equal to three-fourths of its market value, whichever is the less;

(*b*) in the case of any such animal as is mentioned in head (*c*) of the preceding paragraph (not being an animal as mentioned in heads (*a*) or (*b*) thereof) an amount equal to its market value.

(3) Notwithstanding the provisions of Article 4 of the Diseases of Animals (Ascertainment of Compensation) Order 1959(**a**) 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, be determined, in default of agreement, by a valuer appointed by the Secretary of State and the owner of the animal and paid by the Secretary of State, or failing such 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 to the owner a certificate in writing of the said value.

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

(4) For the purposes of this Article, the market value of a bovine animal is 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 affected animal, if it were not affected;

(*b*) in the case of an animal which has reacted to a tuberculin test, if it had not so reacted; and

(*c*) in the case of an animal which has been exposed to the infection of tuberculosis by contact with any such animal as is mentioned in heads (*a*) or (*b*) of this paragraph, if it had not been so exposed.

Compensation for 'control animals'

5.—(1) Notwithstanding anything in Article 4 of this Order the compensation payable in respect of an animal to which this Article applies, being an animal which the Secretary of State causes to be slaughtered on account of tuberculosis pursuant to paragraph (*a*) or (*b*) of section 17(1) of the Act, shall consist only of the value of the carcase of the animal less the expenses reasonably incurred by the Secretary of State in relation to the animal before slaughter, to the slaughter of the animal and to the subsequent disposal of the carcase.

(**a**) S.I. 1959/1335 (1959 I, p. 227).

(2) This Article applies to any bovine animal (in this paragraph referred to as " the control animal ") as respects which it is a condition of 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 together with the imported animal in an imported animals' quarantine station, there to serve as a control in relation to the imported animal as respects any disease of bovine animals.

Given under the Seal of the Secretary of State for Scotland.

7th July 1964.

Michael Noble,
Secretary of State for Scotland.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed.

9th July 1964

Christopher Soames,
Minister of Agriculture, Fisheries and Food.

We approve,

21st July 1964.

M. A. Hamilton,
Martin McLaren,
Two of the Lords' Commissioners of Her Majesty's Treasury.

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

This Order revokes and re-enacts for Scotland the Tuberculosis (Compensation) Order 1950 as amended (S.I.—1950/2005, 1959/1460, 1960/1714), which prescribed the scale of compensation payable for cattle slaughtered under Section 17 of the Diseases of Animals Act 1950 because they have reacted to a tuberculin test, or have been exposed to the infection of tuberculosis by contact with a reactor. The scale of compensation prescribed will apply henceforth as well to cattle slaughtered because they are affected with clinical tuberculosis, or have been exposed to infection by contact with animals so affected. This is in substitution for the scale prescribed in Articles 6 and 7 of the Tuberculosis Order of 1938, as amended (S.R. & O. 1938/165, 1946/122), both of which Articles are revoked.

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 control animals is limited to the carcase value of the animal, less the Secretary of State's reasonable expenses.