
STATUTORY INSTRUMENTS

1990 No. 2628

ANIMALS

ANIMAL HEALTH

The Welfare of Animals at Markets Order 1990

Made - - - - *27th December 1990*

Coming into force - - *1st March 1991*

The Minister of Agriculture, Fisheries and Food, the Secretary of State for Scotland and the Secretary of State for Wales, acting jointly, in exercise of the powers conferred by sections 1, 8(1), 37(1), 38(1), 72, 86(1) and 87(2), (4) and (5) of the Animal Health Act 1981(1) and of all other powers enabling them in that behalf, hereby make the following Order:

Title and commencement

1. This Order may be cited as the Welfare of Animals at Markets Order 1990 and shall come into force on 1st March 1991.

Extension of definitions of “animals” and “poultry”

2. For the purposes of the Act in its application to this Order—
- (a) the definition of “animals” in section 87(1) of the Act is hereby extended so as to comprise rabbits; and
 - (b) the definition of “poultry” in section 87(4) of the Act is hereby extended so as to comprise quails.

Interpretation

- 3.—(1) In this Order, unless the context otherwise requires—
- “the Act” means the Animal Health Act 1981;
 - “animals” means cattle, sheep, goats and all other ruminating animals, pigs, rabbits and poultry;
 - “appropriate Minister” means, in relation to England, the Minister, and in relation to Scotland or to Wales, the Secretary of State;
 - “calf” means a bovine animal under the age of six months;

(1) 1981 c. 22; section 86(1) contains a definition of “the Ministers” relevant to the exercise of the statutory powers under which this Order is made.

“cattle” means bulls, cows, steers, heifers and calves;

“inspector” means a person appointed to be an inspector for the purposes of the Act by the Minister or by a local authority and, when used in relation to a person appointed by the Minister, includes a veterinary inspector;

“market” means a market place or sale-yard or any other premises or place to which animals are brought from other places and exposed for sale and includes any lairage adjoining a market and used in connection with it and any place adjoining a market used as a parking area by visitors to the market for parking vehicles;

“market authority” means the local authority or other person responsible for the upkeep of a market or for the provision of fixed facilities there;

“the Minister” means the Minister of Agriculture, Fisheries and Food;

“poultry” means live birds of the following species, that is to say, domestic fowls, turkeys, geese, ducks, guinea-fowls, pheasants, partridges and quails;

“unfit” includes infirm, diseased, ill, injured and fatigued;

“vehicle” means any vehicle (including a trailer of any description and the detachable body of a vehicle) constructed or adapted for use on a road;

“veterinary inspector” means a veterinary inspector appointed by the Minister.

(2) Any reference in this Order to a numbered article is a reference to the article bearing that number in this Order.

Scope

4. The provisions of articles 6 to 10, 13, 15 to 17 and 19 shall apply to animals (or to any particular animals mentioned in any of those articles)—

- (a) while they are exposed for sale in a market or while they are awaiting removal after being exposed for sale there; or
- (b) which are being kept temporarily in a market (without being exposed for sale there) pending completion of their inland transit in Great Britain.

Unfit animals and animals likely to give birth

5.—(1) No person shall permit an unfit animal to be exposed for sale in a market.

(2) No person shall permit an animal to be exposed for sale in a market if it is likely to give birth while it is there.

Protection of animals from injury or unnecessary suffering

6.—(1) No person shall cause or permit any injury or unnecessary suffering to an animal in a market.

(2) Without prejudice to the generality of paragraph (1) above, it shall be the duty of any person in charge of an animal in a market to ensure that the animal is not, or is not likely to be, caused injury or unnecessary suffering by reason of—

- (a) the animal being exposed to the weather;
- (b) inadequate ventilation being available for the animal;
- (c) the animal being hit or prodded by any instrument or other thing; or
- (d) any other cause.

Handling and tying of animals

- 7.—(1) Subject to paragraph (3) below, no person shall handle an animal in a market by—
- (a) lifting it off the ground;
 - (b) dragging it along the ground; or
 - (c) suspending it clear of the ground,
- by the head, neck, ears, horns, legs, feet, tail, fleece or wing.
- (2) Subject to paragraph (4) below, no person shall—
- (a) tie up or muzzle any calf; or
 - (b) tie any poultry by the neck, leg or wing.
- (3) Paragraph (1) above shall not prohibit—
- (a) any geese being lifted off the ground by the base of both wings; or
 - (b) any poultry being suspended clear of the ground by the legs while they are being weighed.
- (4) Paragraph (2) above shall not prohibit any poultry being tied by the leg while they are being weighed.

Control of animals

- 8.—(1) No person shall use excessive force to control any animals in a market.
- (2) Subject to paragraph (3) below, no person shall use in a market—
- (a) any instrument which is capable of inflicting an electric shock to control any animals;
 - (b) any stick, goad or other instrument or thing to hit or prod any calves; or
 - (c) any stick (other than a flat slap stick or a slap marker), non-electric goad or other instrument or thing to hit or prod any pigs.
- (3) The prohibition in paragraph (2)(a) above shall not apply to the use of an instrument mentioned in that paragraph, on the hindquarters of any cattle over the age of 6 months or adult pigs which are refusing to move forward when there is space for them to do so.
- (4) No person shall drive or lead any animal over any ground or floor, the nature or condition of which is likely to cause the animal to slip or fall.

Obstruction and annoyance of animals

- 9.—(1) No person shall knowingly obstruct any animal which is being driven or led through any part of a market.
- (2) No person shall wantonly or unreasonably annoy any animal in a market.

Penning and caging of animals

- 10.—(1) It shall be the duty of a market operator to ensure that no animal is kept in a pen, cage or hutch which is unsuitable for the size and species of that animal.
- (2) Without prejudice to the generality of paragraph (1) above it shall be the duty of a market operator to ensure that—
- (a) any pen in which any calves or pigs are kept is of sufficient size to enable all the calves or pigs kept in it to lie down at the same time;
 - (b) any cage or hutch in which any poultry or rabbits are kept—

- (i) is of such a design as to enable the poultry to stand in their natural position, or, as the case may be, to enable all the rabbits kept in them to sit upright on all four feet without their ears touching the top of the cage or hutch, and
 - (ii) has a door which is of sufficient size to enable the poultry or rabbits (as the case may be) to be placed in, and removed from, the cage or hutch without being caused any injury or unnecessary suffering.
- (3) Without prejudice to the generality of paragraph (1) above, it shall be the duty of a market operator to ensure that, within the market—
- (a) when animals are penned—
 - (i) those of one species are kept in separate pens from animals of another species; and
 - (ii) they are distributed within the pens, having regard to differences in age and size, so as to avoid unnecessary suffering to them;
 - (b) any fractious animal is kept in a separate pen, cage or hutch from other animals;
 - (c) animals are not kept in pens, cages or hutches which are overcrowded;
 - (d) adequate provision is made to prevent animals—
 - (i) escaping from the market, and
 - (ii) coming into contact with any aggressive or fractious animals in the market;
 - (e) a bull is not kept in the same undivided pen in the market as any other animal except that—
 - (i) bulls which are halter broken may be kept together in the same undivided pen if they are all secured by the head or neck, and
 - (ii) bulls which have been reared together may be kept together in the same undivided pen (without being secured by the head or neck);
 - (f) a boar over the age of 6 months is not kept in the same undivided pen as any other animal; and
 - (g) animals with young at foot are not kept in the same undivided pen as any other animals, except where they originate from the same group of animals and are of a mutually acceptable disposition.
- (4) For the purposes of paragraph (3) above, a “fractious animal” is an animal which is likely to cause injury to other animals.

Feeding and watering of animals

11.—(1) It shall be the duty of the person in charge of an animal to ensure that the animal is provided with an adequate quantity of wholesome water as often as is necessary to prevent it suffering from thirst.

(2) It shall be the duty of the owner (or his duly authorised agent) of an animal which is kept in a market from one day to the next to ensure that the animal is provided with an adequate quantity of suitable food and with an adequate quantity of wholesome water—

- (a) before 9 p.m. on the day on which the animal arrives at the market or, if it arrives at the market after 9 p.m., immediately on its arrival there; and
- (b) thereafter at least once in each complete period of 12 hours (calculated from 9 p.m. on the day of its arrival at the market) during which the animal is kept in the market.

Provision of lighting and bedding

12. It shall be the duty of a market operator or other person for the time being in charge of an animal to ensure that—

- (a) adequate lighting is available to enable animals kept in the market to be inspected and to be fed and watered; and
- (b) an adequate supply of suitable bedding is provided for—
 - (i) any calves, dairy cattle in milk or in calf, goats in milk or in kid, or pigs; and
 - (ii) any lambs (except a lamb which is kept at the foot of its dam) or goat kids in either case under 4 weeks of age.

Covered accommodation

13.—(1) It shall be the duty of the market authority of every market in which any calves, dairy cattle in milk or in calf, pigs, goats, lambs (except a lamb which is kept at the foot of its dam) less than 4 weeks old, rabbits or poultry are kept to provide covered accommodation in the market for such animals.

(2) It shall be the duty of the market operator to ensure that any such animals are kept in the covered accommodation provided by the market authority in accordance with paragraph (1) above.

Restrictions on the sale of calves

14.—(1) No person shall bring to a market a calf which is less than 7 days old or which has an unhealed navel.

(2) No person shall bring to a market a calf which has been brought to a market on more than one occasion in the previous 28 days.

(3) No person shall bring a calf to a market unless upon arrival he has furnished the market operator with a written declaration signed by the owner of the calf or his duly authorised agent—

- (a) stating the name and address of the owner of the calf;
- (b) giving details of the identification number of the calf;
- (c) stating that the calf has not been brought to a market before, or, as the case may be, has been brought to a market only once during the previous 28 days; and
- (d) where the calf has been brought to a market once during the previous 28 days, stating the address of that market and the date on which the calf was brought there.

(4) Every declaration furnished to a market operator under paragraph (3) above shall be retained by the market operator for a period of 6 months from the date on which it is furnished to the market operator and the market operator shall, on demand made by an inspector at any reasonable time during that period, produce such declaration and allow a copy of it or an extract from it to be taken.

(5) Where a calf has been sold and before its removal from the market, the market operator shall—

- (a) in the case of a sale by auction, and
- (b) upon request by the purchaser in the case of a sale by private treaty

supply to the purchaser of the calf details in writing of—

- (i) the identification number of the calf;
- (ii) the date of the sale of the calf and the address of the market at which it was sold; and
- (iii) where the calf has been brought to a market once within the previous 28 days, the address of that market and the date on which the calf was brought there.

(6) Every market operator shall—

- (a) keep a record of the details supplied to a purchaser of a calf for the purposes of paragraph (5) above and of the name and address of that purchaser;
 - (b) retain such record for a period of 6 months from the date on which the details to which the record relates were supplied to the purchaser; and
 - (c) produce such record to an inspector on demand being made by him at any reasonable time during that period and allow a copy of it or an extract from it to be taken.
- (7) It shall be the duty of the owner of any calf kept in a market on any day, or of his duly authorised agent, to remove it from the market within 4 hours of the time when the last sale by auction of a calf has taken place on that day.
- (8) In this article—
- (a) “calf” means a bovine animal under 12 weeks of age; and
 - (b) the reference to an identification number shall be taken as a reference to any mark or other means of identification applied under article 16(1) of the Tuberculosis (England and Wales) Order 1984⁽²⁾ or article 16(1) of the Tuberculosis (Scotland) Order 1984⁽³⁾, as appropriate or article 4 of the Bovine Animals (Identification, Marking and Breeding Records) Order 1990⁽⁴⁾.

Additional duties of market authorities

15. It shall be the duty of a market authority to ensure that—
- (a) all passageways and sale rings in the market and all pens in which animals are kept are—
 - (i) constructed and maintained in a manner which is not likely to cause injury or unnecessary suffering to animals; and
 - (ii) free from any sharp edges or projections with which animals may come into contact;
 - (b) an adequate supply of wholesome water is available for animals;
 - (c) adequate facilities in the form of troughs, buckets, drinking bowls or other drinking devices are available for watering animals; and
 - (d) any covered accommodation in the market in which animals are kept is capable of being adequately ventilated.

Accommodation for unfit animals

16. It shall be the duty of a market operator to ensure that—
- (a) suitable pens are available in which any unfit animals may be separated from other animals; and
 - (b) any such pen in which an unfit animal is being kept is clearly marked so as to show that it is being used for this purpose and that entry to the pen is prohibited unless under the authority of an inspector.

Detention and treatment of unfit animals

17.—(1) Where an inspector has reasonable grounds for supposing that any animal in a market is unfit he may move it, or cause it to be moved, to a pen provided in the market for the accommodation of unfit animals or to any other suitable place in the market and require the market operator to detain the animal there pending its examination by a veterinary inspector.

(2) S.I.1984/1943.

(3) S.I. 1984/2063.

(4) S.I. 1990/1867.

(2) Where a veterinary inspector is of the opinion that any animal in a market is unfit, he may treat it, or cause it to be treated, and take, or cause to be taken, any other steps that he considers necessary to protect it from suffering, and he may for any such purpose require the market operator to detain the animal in a pen or at a place mentioned in paragraph (1) above for as long as he considers necessary for the purpose of further treatment or otherwise protecting it from suffering.

(3) Where an animal is being detained in pursuance of paragraph (1) or (2) above no person shall move it from its place of detention except with the approval of a veterinary inspector and in accordance with any conditions subject to which the approval is given.

(4) No person shall enter a pen in which any unfit animal is being kept unless authorised to do so by an inspector.

(5) A market operator shall—

(a) render such reasonable assistance to an inspector as he may require for the purpose of facilitating the exercise of his powers under paragraph (1) or (2) above; and

(b) give to an inspector such information as he possesses as to the ownership of any animal in respect of which any such power is exercised.

(6) The amount of any expenses reasonably incurred by a veterinary inspector in treating, or causing to be treated, an unfit animal in exercise of the power conferred on him by paragraph (2) above shall be recoverable by the appropriate Minister as a civil debt from the owner of the animal in respect of which the power was exercised.

(7) In this article—

(a) “treatment” includes milking and “treat”, “treated” and “treating” shall be construed accordingly; and

(b) “unfit” includes overstocked with milk or likely to give birth.

Marking of animals

18. An inspector may, for the purposes of this Order, mark, or cause to be marked, any animal.

Ramps

19. Where, at any time after the coming into force of this Order, any premises are constructed for use as a market it shall be the duty of the market authority for that market to ensure that facilities are provided in the market for the purpose of loading and unloading cattle, sheep, goats and pigs into and out of vehicles and that those facilities consist of fixed ramps or other facilities which are of a height and design suitable for that purpose; and it shall be the duty of the market authority to ensure that any fixed ramp or other facilities which are so provided are fitted with side railings (or some other means of protection) designed and constructed so as to prevent such animals from falling off them.

Offences

20. Any person who, without lawful authority or excuse, proof of which shall lie on him—

(a) defaces, obliterates or removes any mark applied to an animal in pursuance of article 18; or

(b) makes a declaration or statement for the purposes of this Order which he knows to be false in a material particular, or, for those purposes, recklessly makes a declaration or statement which is false in a material particular; or

(c) contravenes any provision of this Order or any provision of an approval issued under it; or

(d) fails to comply with any such provision or with any condition of any such approval; or

(e) knowingly causes or permits any such contravention or non-compliance,

commits an offence against the Act.

Local authority to enforce Order

21. The provisions of this Order shall, except where otherwise expressly provided, be executed and enforced by the local authority.

Saving

22. The provisions of this Order are in addition to, and not in substitution for, the provisions of the Markets, Sales and Lairs Order 1925⁽⁵⁾ and nothing contained in this Order shall affect, or be affected by, the provisions of that Order.

Revocation

23. The Poultry (Exposure for Sale) Order of 1937⁽⁶⁾, the Markets (Protection of Animals) Order 1964⁽⁷⁾, the Markets (Protection of Animals) (Amendment) Order 1965⁽⁸⁾, article 5 of the Diseases of Animals (Local Authorities) (Miscellaneous Provisions) Order 1976⁽⁹⁾ and article 21(1) of the Welfare of Poultry (Transport) Order 1988⁽¹⁰⁾ are hereby revoked.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 27th December 1990.

John Selwyn Gummer
Minister of Agriculture, Fisheries and Food

Strathclyde
Parliamentary Under Secretary of State, Scottish
Office

27th December 1990

David Hunt
Secretary of State for Wales

21st December 1990

⁽⁵⁾ S.R. & O 1925/1349, amended by S.I. 1926/546, 1927/982, 1955/958.

⁽⁶⁾ S.R. & O 1937/554.

⁽⁷⁾ S.I. 1964/1055.

⁽⁸⁾ S.I. 1965/1981.

⁽⁹⁾ S.I. 1976/919.

⁽¹⁰⁾ S.I. 1988/851.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision for the welfare of animals in markets. In a market it is an offence to permit an unfit animal to be exposed for sale (article 5), to cause or permit any injury or unnecessary suffering to an animal (article 6), to handle or tie animals in a particular way (article 7), to use excessive force to control an animal (the use of sticks and goads is also restricted) (article 8) or knowingly to obstruct an animal or wantonly annoy an animal (article 9).

The market operator must ensure that animals are properly penned and caged (article 10), adequately provided with lighting and bedding (article 12), and that there is accommodation for unfit animals (article 16). Duties are placed on the owner (or his duly authorised agent) or the person in charge of the animal to ensure that it is adequately fed and watered (article 11). It is the duty of the market authority to provide covered accommodation (article 13) and other facilities (article 15) including ramps for the purpose of loading and unloading animals out of a vehicle (article 19). There are specified restrictions on the sale of calves (article 14).

Provision is made for the detention and treatment of unfit animals (article 17), for an inspector to mark, or cause to be marked, an animal for identification purposes (article 18) and for offences (article 20).

The Markets (Protection of Animals) Order 1964, as amended, and other miscellaneous provisions concerned with the protection of animals and poultry are revoked (article 23).