



SCOTTISH EXECUTIVE

Environment and Rural Affairs Department
Rural Group

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To: Industry Stakeholders

Your ref:
Our ref:

16 November 2006

Dear Stakeholder

THE ANIMAL GATHERINGS (SCOTLAND) ORDER

The purpose of this letter is to seek your views on the attached draft Scottish Statutory Instrument, The Animal Gatherings (Scotland) Order. To assist you in understanding the provisions contained in the draft Order guidance notes are enclosed. **The deadline for responses is 19 January 2007.**

The primary aim of this new legislation is to allow for the licensing of animal gatherings for disease control purposes. The Order also sets out in statute general biosecurity arrangements that all licence holders must comply with. Additionally, the Order places a legal obligation on those attending such gatherings to comply with certain biosecurity controls.

SEERAD are keen to ensure that the final Order is robust enough to achieve its disease control aims, but flexible enough to allow business and agricultural activities to continue with minimal disruption. For this reason you are strongly encouraged to participate in this consultation process as this will ensure that your views are fully considered.

At this time no Regulatory Impact Assessment (RIA) has been prepared for this legislation. One of the reasons for this is that the main livestock sector affected, markets, are already regulated under the Disease Control (Interim Measures) (Scotland) Order 2002, and have additionally been complying for some time with a voluntary biosecurity code in anticipation of this new legislative framework. The new Order simply formalises these arrangements by making it a legal obligation to meet those biosecurity conditions. SEERAD also take the view that the application process will not increase to any great extent the burden on those wishing to hold an animal gathering such as a show or exhibition as these events are similarly regulated at present by the Disease Control (Interim Measures) Order 2002 in that there is already a requirement to notify in advance any such intention, and to supply details relevant to the proposed event. Again the proposed new Order simply requires that instead of advance written notification, such information should now be submitted as a written application.

We would however be interested in your views should you consider that the proposals would incur financial burdens for your business.

Handling your responses

As part of the consultation process we need to know how you wish your response to be handled and, in particular, whether you are happy for your response to be made public. Please complete and return the enclosed **Respondee Information Form** as this will ensure that we treat your response appropriately. If you ask for your response not to be published we will regard it as confidential and treat it accordingly.

All respondents should be aware that the Scottish Executive is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

Where respondents have given permission for their response to be made public, these will be made available to the public in the Scottish Executive library. We will check all responses where agreement to publish has been given for any defamatory material before logging them in the library or placing them on the Scottish Executive website. You can make arrangements to view responses by contacting the SE library on 0131 244 4552. Responses can also be copied and sent to you, but a charge may be made for this service.

Next steps

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us reach a decision on the final text of the Order.

How to respond

Please send your comments to:

Mr Kenny Gilchrist
Animal Health Team
Room 352
Pentland House
47 Robb's Loan
Edinburgh
EH14 1TY

Alternatively, you can submit your response by e-mail to kenny.gilchrist@scotland.gsi.gov.uk or by fax on 0131 244 6616.

Should you have any questions about this consultation exercise or require clarification of any issue, then please contact me on 0131 244 6420.

Yours faithfully,

John Nicolson
ANIMAL HEALTH & WELFARE

CONSULTATION ON THE DRAFT ANIMAL GATHERINGS (SCOTLAND) ORDER

RESPONDENT INFORMATION FORM

Please complete the details below and return it with your response. This will help ensure we handle your response appropriately. Thank you for your help.

Name:

Organisation:

Postal Address:

1. Are you responding: (please tick one box)

(a) as an individual go to Q2 and then Q4

(b) **on behalf of** a group/organisation go to Q3 and then Q4

INDIVIDUALS

2a. Do you agree to your response being made available to the public (in the Scottish Executive library and/or on the Scottish Executive website)?

Yes (go to 2b below)

No, not at all We will treat your response as confidential

2b. Where **confidentiality is not requested**, we will make your response available to the public on the following basis (**please tick one** of the following boxes)

Yes, make my response, name and address all available

Yes, make my response available, but not my name or address

Yes, make my response and name available, but not my address

ON BEHALF OF GROUPS OR ORGANISATIONS:

3. The name and address of your organisation **will be** made available to the public (in the Scottish Executive library and/or on the Scottish Executive website). Are you also content for your **response** to be made available?

Yes

No We will treat your response as confidential

SHARING RESPONSES/FUTURE ENGAGEMENT

4. We will share your response internally with other Scottish Executive policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for the Scottish Executive to contact you again in the future in relation to this consultation response?

Yes

No

THE ANIMAL GATHERINGS (SCOTLAND) ORDER

The following notes are to assist you in understanding the provisions set out in the draft Animal Gatherings (Scotland) Order.

Article 1 – Citation, commencement and extent

- identifies the name of the Instrument (Order), the extent of its application and gives the date on which the provisions contained therein come into force.

Article 2 - Interpretation

- explains for the avoidance of doubt the meaning attached to certain words used throughout the Order. Also makes provision for any reference to anything done in writing to include electronic communications.

Article 3 - Application

- extends the definition of “animals” as set out in the *Animal Health Act 1981* to include all bovines, deer and horses.

Article 4 – Exceptions

- exempts from the provisions contained in the Order premises to which bovine animals or swine are brought together for onward consignment to other Member States (effectively, assembly centres). Also exempts deer and horses from the provisions contained in the Order, but only when the only animals involved are horses or deer or both.

Article 5 – Notices and licences

- explains that licences will be in writing and can be varied, suspended or revoked by the Scottish Ministers by way of a notice issued by them, and that such notices may also be subsequently varied, suspended or revoked by an inspector. Makes clear that licences may be subject to conditions over and above those specified in Schedule 1 of the Order.

Article 6 – Restriction on the use of premises for animal gatherings

- prohibits persons from holding animal gatherings on any premises unless licensed for that purpose. However, this provision will not apply to local gatherings that take place for strictly animal husbandry purposes e.g. the bringing together of sheep from neighbouring farms for the purpose of dipping.

Article 7 – Applications for licences

- requires applications for a licence to hold an animal gathering to be in writing. Also details the information required from applicants when submitting an application for a licence.

- makes provision for an existing licence to continue to have effect, regardless of the expiry date shown on that licence whilst (a) a new licence application for that particular premises is under consideration by Scottish Ministers or (b) the Scottish Ministers are in the process of considering an appeal against a refusal to issue a new licence.

Article 8 – General provisions as to licences

- places an obligation on Scottish Ministers to take fully into account the risk of disease spread and the arrangements for the proposed gathering before granting a licence to allow the gathering to take place.
- makes clear that any decision taken to revoke, refuse, suspend or vary a licence must be communicated in writing and give the reason for that decision.
- places an obligation on licence holders to produce that licence when asked for it by an inspector. Licence holders must also allow an inspector to copy that licence or take an extract from it and if asked for provide their name and address.

Article 9 – Review

- makes provision for an appeals process whereby persons aggrieved by a decision of the Scottish Ministers to refuse, revoke, suspend or vary a licence can ask the Scottish Ministers in writing to review that decision. It further sets out the steps and procedures Scottish Ministers must adhere to when conducting any such review.
- makes clear that any request to Scottish Ministers to review any decision will not have the effect of suspending that decision.

Article 10 – Derogations

- allows Scottish Ministers to derogate from the conditions set out in *schedule 1* of the draft Order but only when satisfied that to do so would not increase the risk of disease spread.

Article 11 – Duties of persons at an animal gathering

- places a legal duty on persons attending licensed animal gatherings to comply with the conditions set out at *schedule 2* of the Order and any notice that may be served on that person by an inspector. Also sets out the options that will be available to any person served with a notice.

Article 12 – Restrictions on the holding of animal gatherings

- prohibits, unless authorised by the Scottish Ministers, any person from allowing animals on to premises used for an animal gathering until 27 days have passed from the day on which all equipment to which animals had access has been cleaned. This won't apply however if the animal area is completely paved and has, after the last animal has left the animal area, been thoroughly cleansed and disinfected with all waste disposed of in accordance with legal requirements.

- sets out the cleansing and disinfection procedures to be followed, including procedures for the destruction and disposal of soiled bedding, excreta and feeding stuffs.
- makes clear that for premises using both paved and unpaved areas the provisions of *article 11(1)* of the Order apply unless the unpaved areas are fenced off, not used again for 27 days and the paved areas have been cleaned and disinfected (effectively, this allows the use of the paved areas).

Article 13 – Restrictions following an animal gathering

- prohibits animals from coming on to any premises which have been used for an animal gathering until all equipment to which animals attending the gathering had access has been cleansed of all visible contamination.
- restricts the removal of equipment to which animals at an animal gathering had access unless that equipment has been cleansed of visible contamination following which 27 days have elapsed **or** such equipment has been cleansed and then disinfected with an approved disinfectant.

Article 14 – Powers of inspectors

- provides inspectors with powers to enter premises for the purpose of ensuring compliance with the conditions of any licence or notice and empowers them to examine, copy and/or remove documents for the purposes of enforcement. It also gives inspectors authority to access computer held records or documents and places a duty on the person operating the computer to assist an inspector in accessing such information as may be required.

Article 15 – Powers of inspectors in case of default

- empowers inspectors to serve a notice on a licence holder for any breach of licence conditions and sets out the information that must be contained in any notice served.

Article 16 – Offences

- makes it an offence under the *Animal Health Act 1981* to contravene any provision of the *Animal Gatherings (Scotland) Order 2007* or a notice served under it. It also makes clear that this does not apply in respect of any act or omission of Ministers or inspectors.

Article 17 – Offences by bodies corporate etc.

- makes provision for the prosecution of individuals employed by or associated with a body corporate for offences committed by that body corporate under the *Animal Health Act 1981* when it is shown that the offence was committed with the consent of the individual or is attributable to any neglect of that individual.

Article 18 –

- makes clear that the provisions of the *Animal Gatherings (Scotland) Order 2007* shall be enforced by the local authorities unless otherwise directed by the Scottish Ministers.

Article 19 –

- provides for the automatic suspension of licences whenever the provisions of the specific disease legislation listed at 19(2) have effect. This effectively means that whilst there is a disease situation all licences for animal gatherings in the areas affected are suspended until such times as the restrictions or controls introduced under the specific disease control legislation are lifted.

Article 20 –

- revokes *The Markets, Sales and Lairs Order 1925* along with associated amendments, articles 6, 6A, 7 and schedule 2 of the *Disease Control (Interim Measures) (Scotland) Order 2002 (as amended)* and regulation 5 of the *Avian Influenza (Preventive Measures) (Scotland) Regulations 2005*.

Schedule 1 –

- lists the conditions that will be applicable to all licences.¹

<p>¹These are conditions that will apply to any licence issued by the Scottish Ministers unless a derogation is granted. Further conditions may apply depending on the nature and duration of the gathering and the assessed disease risk.</p>

Schedule 2 –

- sets out what is required in respect of biosecurity from persons attending an animal gathering and prohibits the bringing on to, or taking from, the licensed premises any vehicle or equipment visibly contaminated with any contaminant derived from animals unless certain conditions are met.

Schedule 3 –

- lists the legislation being revoked by the *Animal Gatherings (Scotland) Order 2007*.

Draft Order for Consultation

The Scottish Ministers in exercise of the powers conferred upon them by sections 7, 8, 8A, 83 and 87 of the Animal Health Act 1981(a) and of all other powers enabling them in that behalf, hereby make the following Order:

Citation, commencement and extent

1.—(1) This Order may be cited as the Animal Gatherings (Scotland) Order 200[*] and shall come into force on [1st September 2007].

(2) This Order extends to Scotland only.

Interpretation

2.—(1) In this Order—

“animal” means any bovine animals, goats, sheep, deer, horses, pigs, poultry and other captive birds;

“animal area” means the area in a licensed premises to which animals may be given access;

“approved disinfectant” means a disinfectant approved for the purpose under the Diseases of Animals (Approved Disinfectants) Order 1978(b);

“bovine animal” means domestic cattle of the genus *Bos*, *Bubalus bubalis* or *Bison bison*;

“licence holder” means a person to whom a licence has been granted under article 6 in respect of premises to be used for an animal gathering;

“licensed premises” means premises in respect of which a licence to hold an animal gathering has been granted under article 6;

“notifiable disease” means a disease of which a person is required to give notice under or by virtue of section 15 of the Animal Health Act 1981;

“paved” means any area paved with cement, concrete, asphalt or other hard impermeable material that is capable of being effectively cleansed and disinfected;

“other captive birds” means a bird kept in captivity which is not poultry and includes a bird kept for shows, races, exhibitions, competitions, breeding or for sale; and

“poultry” means a bird reared or kept in captivity for the production of meat or eggs for consumption, or of other products, for restocking supplies of game, or for the purposes of any breeding programme for the production of such categories of birds;

(2) A reference in this Order to anything done in writing or produced in written form includes a reference to an electronic communication as defined by section 15(1) of the Electronic Communications Act 2000(c).

(a) 1981 c.22 as amended by 2006 asp 11.

(b) S.I. 1978/32, as last amended by S.S.I. 2006/352.

(c) 2000 c.7. The definition of “electronic communication” in section 15(1) was amended by the Communications Act 2003 (c.21) section 406(1) and Schedule 17, paragraph 158.

Application

3. For the purposes of the Animal Health Act 1981 in its application to this Order the definition of animals in section 87(1) is extended to include all bovine animals, deer and horses.

Exceptions

- 4.—(1) This Order does not apply to occasions at which the only animals involved are—
- (a) bovine animals or swine (or both) brought together for the purposes of onward consignment for trade between member States;
 - (b) deer or horses (or both).

Notices and licences

- 5.—(1) A licence under this Order—
- (a) must be in writing;
 - (b) may be varied, suspended or revoked by a notice issued by the Scottish Ministers; and
 - (c) may, in addition to any conditions specified in Schedule 1 to this Order, be subject to such conditions, as the Scottish Ministers consider necessary to prevent the spread of disease.

(2) A notice under this Order may be varied, suspended or revoked by a notice issued by an inspector.

Restriction on the use of premises for animal gatherings

6.—(1) No person shall use any premises for an animal gathering unless those premises are licensed for that purpose by the Scottish Ministers.

(2) Paragraph (1) shall not apply to the local gathering of animals together for animal husbandry purposes.

Applications for licences

7.—(1) An application for a licence to use premises for the purposes of an animal gathering must be made in writing to the Scottish Ministers and must provide the following information—

- (a) the organiser's name and address;
- (b) details of the premises where the animal gathering is to be held;
- (c) details of the nature of the animal gathering; and
- (d) such other information as the Scottish Ministers may reasonably require in order for a veterinary assessment of the risk of disease to be carried out.

(2) Where a person applies for a licence for premises licensed under article 6(1) to take effect on the expiry of the existing licence, the existing licence shall continue to have effect, regardless of its expiry date, pending final determination of the application or, where applicable, final determination of an application for review of the refusal of the licence.

General provisions as to licences

8.—(1) The Scottish Ministers in granting or refusing to grant a licence shall have regard to all matters connected with the prevention of the spread of disease and shall not grant a licence unless satisfied that the arrangements for the animal gathering are such as will not lead to an increased risk of disease spread.

(2) Any decision to refuse, suspend, vary or revoke a licence shall be notified in writing to the licence holder, or applicant where applicable, together with the reasons for that decision.

(3) A licence holder shall on demand by an inspector produce that licence and allow a copy thereof, or extract therefrom, to be taken and shall also if so required provide their name and address.

Review

9.—(1) Where a person is aggrieved by a decision of the Scottish Ministers to refuse, to suspend, to revoke or to vary a licence, or as to any condition imposed in a licence, that person may within a period of 21 days of the date when that person receives notice of that decision, in writing request the Scottish Ministers to review that decision, and in carrying out that review the Scottish Ministers shall—

- (a) afford that person an opportunity of making written representations for consideration by an officer of the Scottish Ministers who has not been involved in the initial decision, and who will prepare a report following consideration of those representations;
- (b) supply a copy of the report by that officer to that person;
- (c) consider the report by that officer before making a decision on the review; and
- (d) give to that person written notification of the decision on the review and the reasons for that decision.

(2) The making of a request to review a decision of the Scottish Ministers shall not have the effect of suspending the decision concerned pending that review.

Derogations

10. The Scottish Ministers may grant a derogation from any of the conditions in Schedule 1 provided they are satisfied that to do so would not increase the risk of disease spread.

Duties of persons at an animal gathering

11.—(1) Any person at an animal gathering must comply with the restrictions and requirements specified in Schedule 2.

(2) If a person outside the animal area is wearing outer clothing or footwear visibly contaminated with mud, animal excreta or any other contaminant derived from animals, an inspector may serve on that person a notice giving that person the option of immediately—

- (a) cleaning his outer clothing or footwear;
- (b) changing into clean clothing or footwear;
- (c) disposing of disposable clothing or footwear; or
- (d) leaving the licensed premises.

Restrictions on the holding of animal gatherings

12.—(1) Unless authorised by notice by the Scottish Ministers, no person shall allow an animal gathering to take place on premises on which animals have been kept until 27 days have passed from the day on which all equipment to which animals have had access has been cleansed of visible contamination (such cleansing shall not be commenced until the last animal has left the premises).

(2) The restriction in paragraph (1) shall not apply if—

- (a) the animal area of the licensed premises is completely paved;
- (b) after the last animal has left the animal area, and before any animal is allowed access to that area again, the animal area has been thoroughly cleansed and then disinfected; and
- (c) all waste has been disposed of in accordance with paragraph (6) or, where applicable, under the Animal By-Products (Scotland) Regulations 2003(a).

(a) SSI 2003/411 as amended by SSI 2006/3.

(3) If, following the last occasion on which the animal area was cleansed and disinfected in accordance with this article, it becomes contaminated with animal excreta or other material of animal origin or any other contaminant derived from animals, then the animal area or those parts of it that have become so contaminated must be cleansed and disinfected with an approved disinfectant before any animals are allowed on to the licensed premises again.

(4) Cleansing of the animal area under paragraphs (1) to (3) shall be by sweeping or scraping clean the animal area (including any equipment) then cleansing with water the same area and cleansing of any equipment under paragraphs (1) to (3) or article 13 shall be by sweeping or scraping clean and then cleansing that equipment with water.

(5) Anything to be disinfected under paragraphs (2) and (3) or article 13 shall be disinfected after cleansing has been completed, using an approved disinfectant at the concentration required under the Diseases of Animal (Approved Disinfectants) Order 1978(a) for “General Orders”.

(6) The licence holder must ensure that all feeding stuffs to which animals at the animal gathering have had access, and all bedding used by animals at the animal gathering, excreta, other material of animal origin and other contaminants derived from animals in the animal area are, as soon as possible, and before animals are allowed to enter the licensed premises again—

- (a) destroyed;
- (b) treated so as to remove the risk of transmission of disease; or
- (c) disposed of so that animals do not have access to them, in accordance with any instructions from an inspector.

(7) Paragraph (6) does not apply to any material to which the Animal By-Products (Scotland) Regulations 2003 applies which a licence holder should dispose of in accordance with those Regulations.

(8) Where an animal gathering is held on premises using both paved and unpaved animal areas paragraph (1) applies unless—

- (a) the unpaved area is surrounded by a stock proof fence so that no animal can gain access to those unpaved areas;
- (b) the unpaved area is not used again for an animal gathering until 27 days have passed from the day on which all equipment to which the animals at the animal gathering had access has been cleansed of visible contamination (such cleansing shall not be commenced until the last animal at the animal gathering has left the animal area);
- (c) the paved area has been cleansed and disinfected in accordance with paragraph (4) and all waste has been disposed of in accordance with paragraph (6) or, where applicable, under the Animal By-Products (Scotland) Regulations 2003.

Restrictions following an animal gathering

13. Where premises have been used for an animal gathering—

- (a) no person shall allow animals on to those premises until all equipment to which animals at the animal gathering had access has been cleansed of visible contamination;
- (b) no person shall remove from those premises any equipment to which the animals at the animal gathering had access unless—
 - (i) after the last animal has left the premises the equipment has been cleansed of visible contamination and a period of 27 days has elapsed since the cleansing was completed; or
 - (ii) the equipment has been thoroughly cleansed and disinfected.

Powers of inspectors

14.—(1) An inspector, on producing, if requested, some duly authenticated document showing their authority, shall have the power to enter any premises where an animal gathering may take, is

(a) SI 1978/32 as amended by S.I. 1978/934, 1997/2347 and 1999/919, and S.S.I. 2001/45, 2003/334, 2004/537, and 2005/99.

taking or has taken place, for the purposes of ensuring compliance with any condition of a licence or a notice issued by an inspector.

(2) An inspector—

- (a) who enters any premises in connection with the enforcement of this Order may examine and copy any document, or remove any documents to enable them to be copied, which the inspector considers to be relevant to the purpose for which the inspector has entered those premises; and
- (b) where any such document is kept by means of a computer, may inspect and check the operation of that computer and any associated apparatus or material which is, or has been, in use in connection with that document; and for this purpose may require any person having charge of, or otherwise concerned with the operation of the computer, apparatus or material to afford the inspector such assistance as the inspector may reasonably require (including providing the inspector with any necessary passwords) and require the document to be produced in a form in which it may be taken away.

Powers of inspectors in case of default

15.—(1) Where a licence holder fails to comply with any condition of the licence an inspector may, without prejudice to any proceedings for an offence arising out of that failure to comply, serve a notice on the licence holder requiring the licence holder to remedy that breach.

(2) The notice—

- (a) must specify the nature of the breach;
- (b) describe the steps that the inspector considers necessary to remedy the breach;
- (c) require that those steps be taken; and
- (d) fix a period within which those steps are to be taken.

Offences

16.—(1) It shall be an offence against the Animal Health Act 1981 for any person, to—

- (a) contravene or fail to comply with any provision of this Order or any notice issued under it; or
- (b) to cause or permit either of the above.

(2) Paragraph (1) shall not apply in relation to any act or omission of the Scottish Ministers or any inspector.

Offences by bodies corporate etc.

17.—(1) If an offence under the Animal Health Act 1981 committed by a body corporate is shown to have been committed with the consent or connivance of, or to be attributable to any neglect of—

- (a) a director, manager, secretary or other similar officer of the body, or
- (b) a person purporting to act in any such capacity,

that person, as well as the body corporate, shall be guilty of the offence and liable to be proceeded against and punished accordingly.

(2) Where the affairs of the body corporate are managed by its members, paragraph (1) applies in relation to the acts and omissions of a member in connection with the member's functions of management as if the member were a director of the body.

(3) Where an offence is committed by a Scottish partnership with the consent or connivance of, or is attributable to any neglect of a partner, that partner, as well as the partnership, shall be guilty of the offence and liable to be proceeded against and punished accordingly.

Enforcement

18.—(1) This Order shall, subject to paragraph (2), be enforced by the local authority.

(2) The Scottish Ministers may, in relation to particular cases or cases of a particular description direct that they, and not the local authority, shall enforce this Order.

Automatic Suspension of Licences

19.—(1) Licences granted under this Order shall be suspended insofar as they relate to the holding of an animal gathering in premises which are located within an area in which the gathering of animals is restricted or prohibited by virtue of any provisions of an instrument listed in paragraph (2), such suspension shall last until the ending of that prohibition or restriction.

(2) The provisions referred to in paragraph (1) are—

- (a) the Avian Influenza and Influenza of Avian Origin in Mammals (Scotland) Order 2006(**a**);
- (b) the Avian Influenza (H5N1 in Wild Birds) (Scotland) (No.2) Order 2006(**b**);
- (c) the Foot-and-Mouth Disease (Scotland) Order 2006(**c**);
- (d) the Diseases of Poultry (Scotland) Order 2003(**d**).

Revocations

20. The instruments specified in Schedule 3 are revoked to the extent specified in that Schedule.

(a) S.S.I. 2006/336
(b) S.S.I. 2006/xxx (being drafted).
(c) S.S.I. 2006/44.
(d) S.S.I. 2003/354

SCHEDULE 1

Article 5(1)(c)

Licence Conditions

- 1.** The licence holder must appoint a biosecurity officer responsible for ensuring compliance with the requirements of this Order and any licence conditions.
- 2.** The licence holder must put up notices detailing the biosecurity measures applicable in the licensed premises and take all reasonable steps to bring to the attention of persons entering the licensed premises the biosecurity measures applicable in those premises.
- 3.** The licence holder must have a contingency plan, agreed with the Scottish Ministers, for dealing with a suspected or confirmed notifiable disease during the course of the animal gathering.
- 4.** The licence holder must immediately notify any material change to the construction or lay out of the licensed premises to the Scottish Ministers.
- 5.** The licence holder must provide at exits from the animal area and at any loading and unloading bay—
 - (a) footbaths containing approved disinfectants; and
 - (b) facilities for removing mud, animal excreta and any other contaminants derived from animals from footwear prior to the use of the footbaths.
- 6.** The licence holder must provide facilities on the licensed premises for changing, cleaning and disinfecting clothes and disposing of disposable clothes.
- 7.** The licence holder—
 - (a) must ensure, that animals are unloaded from, and loaded onto, vehicles only in the animal area; and
 - (b) ensure, so far as reasonably practicable, that animals do not leave the animal area except on a vehicle.
- 8.** The licence holder must, so far as reasonably practicable, ensure that no person shall enter the licensed premises wearing outer clothing or footwear which is visibly contaminated with excreta or other contaminant derived from animals.

SCHEDULE 2

Article 11

Duties on Persons at an Animal Gathering

1. No person may enter licensed premises wearing outer clothing or footwear visibly contaminated with mud, animal excreta or any other contaminant derived from animals.

2. If a person in the animal area is wearing outer clothing visibly contaminated with mud, animal excreta or any other contaminant derived from animals, on leaving the animal area that person must immediately clean that outer clothing of gross contamination (unless the clothing is to be disposed of on site) and either disinfect it, change into clean clothing or dispose of it in the facilities provided.

3. Any person leaving the animal area must, using the facilities provided, remove mud, animal excreta and any other contaminant derived from animals from their footwear and then disinfect that footwear in the footbaths containing approved disinfectant provided.

4.—(1) No person shall bring on to, or take from, the licensed premises any vehicle, or equipment carried with that vehicle, that is visibly contaminated with animal excreta or any other contaminant derived from animals.

(2) This paragraph does not apply to any vehicle, or equipment carried with that vehicle, coming on to the licensed premises—

- (a) if the excreta or other contaminant is only from animals being carried on the vehicle at the time it is brought on to the licensed premises; or
- (b) solely for cleansing and disinfection, if taken directly to the cleansing and disinfection facilities immediately upon arrival.

(3) This paragraph does not apply to any vehicle, or equipment carried with that vehicle, leaving the licensed premises if—

- (a) the excreta or other contaminant is only from animals which have been unloaded from the vehicle on the licensed premises;
- (b) the excreta or other contaminant is only from animals which have been loaded on to the vehicle on the licensed premises; or
- (c) the vehicle is going direct to cleansing and disinfection facilities not located on the licensed premises.

SCHEDULE 3

Article 20

Revocations

<i>Name</i>	<i>Reference</i>	<i>Extent of revocation</i>
The Markets, Sales and Lairs Order 1925	S.R.& O 1925/1349	Whole Order
The Markets, Sales and Lairs (Amendment) Order 1926	S.R.& O 1926/546	Whole Order
The Markets, Sales and Lairs (Amendment) Order 1927	S.R.& O 1927/982	Whole Order
The Markets, Sales and Lairs (Amendment) Order 1996	S.I. 1996/3265	Whole Order
Disease Control (Interim Measures) (Scotland) Order 2002	S.S.I. 2002/34 amended by S.S.I. 2002/221, 2002/369, 2003/228 and 2006/44	Articles 6, 6A and 7 of, and Schedule 2 to the Order.
Avian Influenza (Preventive Measures) (Scotland) Regulations 2005	S.S.I. 2005/530 amended by S.S.I. 2005/646 and 2006/399	Regulation 5.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, which applies to Scotland only, principally makes provision for the licensing of animal gatherings. “Animal gathering” is defined in section 8A of the 1981 Act as “an occasion at which animals or birds (or both) are brought together for any purpose”. Exempted from that definition are the bringing together of animals or birds all of which are owned by the same person and gatherings which take place on land in respect of which more than one person has a right of use and which involve animals or birds all of which are owned by persons who have a right of use of that land.

This Order provides that premises require to be licensed if they are to be used for any animal gatherings involving bovine animals, goats, sheep, horses, pigs, poultry and other captive birds. (article 6)

Exempted from the requirement to be licensed are premises to be used for the bringing together of bovine animals or swine for onward consignment for trade between member States (article 4) and those used for local gatherings for the animal husbandry purposes (article 6(2)).

Licences issued may, in addition to the conditions specified in Schedule 1 to the Order, be subject to such conditions as the Scottish Ministers consider necessary to prevent the spread of disease. (article 5(1)(c)).

Article 12(1) provides that an animal gathering can only take place 27 days after equipment on the premises has been cleansed of visible contamination such cleansing cannot take place until the last animal has left those premises. Article 12(2) provides that if the gathering takes place in premises which have an animal area (defined in article 2(1)) which is completely paved the 27 day restriction does not apply provided the premises are cleansed and disinfected after the last animal has left the animal area and animals are not allowed access to that area again until the cleansing and disinfection is completed and all waste is disposed of in accordance with the article 12(6) or the Animal By-Products (Scotland) Regulations 2003.

The Order also imposes duties on persons attending an animal gathering (article 11 and Schedule 2) and imposes restrictions following an animal gathering (article 13).

It revokes the Markets, Sales and Lairs Order 1925 (S.R. & O. 1925/1349) and amending instruments and certain provisions of the Disease Control (Interim Measures) (Scotland) Order 2002 and Avian Influenza (Preventive Measures) (Scotland) Regulations 2005 (article 20 and Schedule 3).

Failure to comply with or to breach the Order is an offence under sections 72 and 73 of the Animal Health Act 1981 (“the 1981 Act”), punishable in accordance with section 75 of that Act. Contravention of any condition of a licence is an offence under section 8A(8) of the 1981 Act. Other offences as to licences are provided by sections 67 to 71 of the 1981 Act.

[A Regulatory Impact Assessment of the effect which this instrument will have on the costs of business has been prepared and placed in the Scottish Parliament Reference Centre.]