

# STATES OF JERSEY



## DRAFT EUROPEAN COMMUNITIES LEGISLATION (BLUETONGUE) (JERSEY) REGULATIONS 200

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Lodged au Greffe on 20th May 2008  
by the Minister for Planning and Environment

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STATES GREFFE





Jersey

## **DRAFT EUROPEAN COMMUNITIES LEGISLATION (BLUETONGUE) (JERSEY) REGULATIONS 200**

### **REPORT**

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Bluetongue is a vector-borne virus disease of ruminants with 24 serotypes. Ruminants in Jersey are sheep, goats and cattle. The virus is transmitted by biting midges of the species *Culicoides* which are present in Jersey. The virus has not been identified in Jersey.

The disease was diagnosed in Northern Europe for the first time in August 2006. The virus serotype 8 was confirmed. Following a period during winter 2006/2007 when there was no midge activity, no disease was reported. The disease re-emerged in June 2007 since when it has spread through several countries, including France where there have been over 11,000 cases. The disease was first diagnosed in England in September 2007.

The disease is notifiable and it classically causes severe production losses in sheep. The Northern European serotype 8 outbreak has also seen losses in cattle both as a result of humane destruction on welfare grounds and production losses. In addition to serotype 8, there is an incursion of serotype 1 into south west France and other serotypes are circulating in southern Europe.

Controls in Europe have been implemented by movement controls and blood testing. Suitable vaccines have recently been developed by a small number of pharmaceutical companies and made available. It is widely recognised that vaccination is the control method of choice for the current situation.

Regulations are required to ensure compliance with EU animal health legislation in relation to Bluetongue, as required by Protocol 3 of the Act of Accession of the United Kingdom to the European Communities 1972 and EU Regulation 706/73.

There are no financial or manpower implications arising from these draft Regulations.

## Explanatory Note

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Council Directive 2000/75/EC of 20 November 2000 laying down specific provisions for the control and eradication of bluetongue is already partially implemented, using Order-making powers conferred by the Diseases of Animals (Jersey) Law 1956, by the Diseases of Animals (Bluetongue) (Jersey) Order 2006 (the "2006 Order"). These Regulations implement the remainder of that Directive.

*Regulation 1* is the interpretation provision. These Regulations are closely connected with the 2006 Order and expressions used in them have the same meaning as in that Order.

*Regulation 2* makes it clear that these Regulations are not a substitute for, but are additional to, the 2006 Order and also to earlier legislation which applied disease-control measures, which are general in nature, to bluetongue.

*Regulation 3* empowers the Minister for Planning and Environment (the "Minister") to declare the whole of Jersey to be either a protection zone or a surveillance zone.

Within the Community territory, a member State must declare both a protection zone and a surveillance zone around a holding where the presence of bluetongue is officially confirmed. The protection zone lies around the holding and must have a radius of at least 100 kilometres. The surveillance zone is an outer band lying around the protection zone, and must have a depth of at least 50 kilometres. Because of the size of the zones, it is quite possible that they will cross the borders of member States. In that event there is a duty on member States to co-operate in the demarcation of the zones. In the absence of co-operation the European Commission can itself demarcate zones.

In the event that an infected place is confirmed in Jersey, the 2006 Order already makes provision for Jersey to be declared to be an infected area and the consequences that flow from such a declaration are the same as those that would apply if Jersey was declared to be a protection zone. However, what the 2006 Order does not and, by virtue of the enabling power in the Diseases of Animals (Jersey) Law 1956, cannot provide for, is that the whole of Jersey is declared to be a protection zone or a surveillance zone having regard to the declaration of either such zone in France. Accordingly, the power given to the Minister by these Regulations may be exercised where, if Jersey had been a member State, it would have co-operated in the demarcation of a zone as described above.

Regulations 4 and 5 describe the consequences of declaring Jersey to be either a protection zone or a surveillance zone. Regulation 6 describes powers that relate only to a protection zone. Regulation 7 is a prohibition that relate only to a surveillance zone.

*Regulations 4 and 5* set out the restrictions on movement of animals, embryos, ovum and semen that apply in a zone and the powers of the States' Veterinary Officer, and any inspector appointed under the Diseases of Animals (Jersey) Law 1956.

*Regulation 6* provides that, if Jersey is declared to be a protection zone, the States' Veterinary Officer may impose compulsory vaccination against bluetongue. However, if Jersey were to be declared to be a surveillance zone only, *Regulation 7* would prohibit vaccination.

Regulations 8 to 15 provide for the enforcement of these Regulations. Although they are long and detailed, they have a single purpose, which is to provide for these Regulations to be enforced in the same way as the 2006 Order is enforced by virtue of being made under the Diseases of Animals (Jersey) Law 1956.

*Regulation 8* requires a person to comply with the conditions of any licence granted under the Regulations and any requirement imposed by or under the Regulations. If a person does not take action when required to do so by or under the Regulations, the States' Veterinary Officer may step in, take the necessary action and recover the costs of doing so from the person.

*Regulation 9* enables the Veterinary Officer or another inspector to use assistants to discharge his or her functions under these Regulations.

*Regulation 10* confers powers of entry on the Veterinary Officer and other inspectors for the purposes of the Regulations.

*Regulation 11* makes it an offence to contravene the Regulations or fail to comply with any requirement imposed under them. Further offences are created of obstruction of an inspector, failing to give assistance, providing false information, falsifying a licence or obtaining a licence by false pretences.

*Regulation 12* makes aiding, abetting and like acts an offence and provides for liability in the case of offences committed by companies and limited liability partnerships.

*Regulation 13* imposes liability for an offence where its commission is due to the act or default of another person.

*Regulation 14* allows a defence where a person has taken all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

*Regulation 15* establishes the penalty for an offence under the Regulations. The penalty is up to 1 months' imprisonment and/or a fine which is on a sliding scale according to the magnitude of the offence.

*Regulation 16* amends the 2006 Order. The amendment has the effect that the powers of entry that may be used under that Order are consistent with those that may be used under these Regulations.

*Regulation 17* empowers the Minister to amend these Regulations by Order, for the purpose of implementing any amendment to the Directive or any replacement Directive. This power is added so that action may be taken without delay, in particular, when the States are not sitting.

*Regulation 18* provides for the citation of the Regulations and for them to come into force forthwith.





Jersey

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## Arrangement

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Jersey

## DRAFT EUROPEAN COMMUNITIES LEGISLATION (BLUETONGUE) (JERSEY) REGULATIONS 200

*Made*

*[date to be inserted]*

*Coming into force*

*[date to be inserted]*

**THE STATES**, in pursuance of Article 2(1) to (3) of the European Communities Legislation (Implementation) (Jersey) Law 1996<sup>[1]</sup>, have made the following Regulations –

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### 1 Interpretation

In these Regulations, unless the context otherwise requires –

“2006 Order” means the Diseases of Animals (Bluetongue) (Jersey) Order 2006<sup>[2]</sup>;

“animal” means a ruminating animal;

“carcase” means the carcase of an animal;

“Commission Regulation” means Commission Regulation (EC) No. 1266/2007 of 26 October 2007 on implementing rules for Council Directive 2000/75/EC as regards the control, monitoring surveillance and restrictions on movements of certain animals of susceptible species in relation to bluetongue (O.J. No. L.283/37, 27.10.2007) as amended from time to time;

“Directive” means Council Directive 2000/75/EC of 20 November 2000 laying down specific provisions for the control and eradication of bluetongue (O. J. number L.327/74, 22.12.2000);

“embryo” means the embryo of an animal;

“inspector” means a person appointed to be an inspector for the purposes of the Diseases of Animals (Jersey) Law 1956<sup>[3]</sup> and includes the Veterinary Officer;

“keeper” means a person who owns an animal, or is charged with keeping an animal (whether or not for financial reward);

“the Law” means the Diseases of Animals (Jersey) Law 1956<sup>[4]</sup>;

“Minister” means the Minister for Planning and Environment;

“ovum” means the ovum of an animal;

“premises” includes land, vehicles, vessels and aircraft;

“require” means to require by a notice in writing served on the person of whom the requirement is made;

“semen” means the semen of an animal;

“sentinel animals” means animals that do not have antibodies to the bluetongue virus and are used for surveillance for the disease;

“thing” includes a carcase, embryo, ovum, semen, fodder, litter, dung, straw, slurry, utensil, pen, hurdle, vehicle, equipment and clothing;

“vector” means –

- (a) an insect of the species *Culicoides imicola*; or
- (b) any other insect of the genus *Culicoides* that, in the opinion of the Veterinary Officer, is capable of transmitting bluetongue;

“veterinary inspector” means an inspector who is a veterinary surgeon;

“Veterinary Officer” has the same meaning as in the Diseases of Animals (Jersey) Law 1956.

## **2 Existing legislation concerning bluetongue**

These Regulations are in addition to, and not in derogation of, the 2006 Order and the Foot-and-Mouth Disease (Jersey) Order 1958<sup>[5]</sup> as it applies to bluetongue by virtue of the Miscellaneous Diseases of Animals (Jersey) Order 1991<sup>[6]</sup>.

## **3 Declaration of protection zone or surveillance zone**

- (1) The Minister may, by notice published in the Jersey Gazette, declare Jersey to be a protection zone if –
  - (a) a protection zone is demarcated in the Community territory, in accordance with Article 8 of the Directive; and
  - (b) the Minister is of the opinion that, having regard to paragraph 2.(c) of that Article, had Jersey formed part of the Community territory, it would have been appropriate for Jersey to form part of that zone.
- (2) The Minister may, by notice published in the Jersey Gazette, declare Jersey to be a surveillance zone if –
  - (a) a surveillance zone is demarcated in the Community territory, in accordance with Article 8 of the Directive; and
  - (b) the Minister is of the opinion that, having regard to paragraph 2.(c) of that Article, had Jersey formed part of the Community territory, it would have been appropriate for Jersey to form part of that zone.
- (3) A declaration under this Article shall remain in force until the Minister, by a notice published in the Jersey Gazette, declares that it has ceased to have effect.

## **4 Effect of declaration of protection zone or surveillance zone**

- (1) Whilst a declaration under Regulation 3 remains in force–
  - (a) no person may export an animal, embryo, ovum or semen from Jersey except under the authority of a licence granted by the Veterinary Officer;
  - (b) no person may move an animal within Jersey if the animal shows clinical signs of bluetongue on the day of transport.
- (2) The Veterinary Officer must grant a licence under paragraph (1)(a) if the movement would be permitted under the Commission Regulation or Directive.
- (3) The conditions of any licence granted under paragraph (1)(a) must be such as to ensure that the movement is made in accordance with the Commission Regulation or Directive.
- (4) A licence granted under paragraph (1)(a) may be granted to one person or be of general application.

## **5 Powers of Veterinary Officer whilst declaration in force**

Whilst a declaration under Regulation 3 remains in force–

- (a) the Veterinary Officer or any other veterinary inspector may require occupiers of premises or keepers of animals on premises –
  - (i) to retain animals for use as sentinel animals, or
  - (ii) to allow the introduction of sentinel animals onto those premises;
- (b) the Veterinary Officer or any other veterinary inspector may, on or in respect of any premises –
  - (i) make tests on and take samples (including blood samples) from any animal or thing, for the purpose of diagnosis of bluetongue,
  - (ii) implement, in addition to any measures taken under paragraph (c)(vii), such vector control measures as the Veterinary Officer or other veterinary inspector considers necessary;
- (c) the Veterinary Officer or any other inspector may, on or in respect of any premises, do any of the following –
  - (i) require an appropriate person to produce to the Veterinary Officer or to any other inspector, any animal or thing for examination on the premises,
  - (ii) require an appropriate person to ensure the detention, isolation, restraint or treatment of any animal,
  - (iii) mark any animal or thing for identification purposes,
  - (iv) require an appropriate person to ensure the burial, disposal or treatment, in the required manner, of any thing,
  - (v) require an appropriate person to ensure the cleansing and disinfection of any part of the premises or of any person, animal or thing on the premises,
  - (vi) require the occupier, any veterinary surgeon who has attended any animal on the premises and any other person who has been in charge of or in contact with any such animal to inform the Veterinary Officer or any other inspector of any other animal or other premises with which the first animal may have come into contact,
  - (vii) collect vectors and set traps for the collection of vectors;
- (d) the Veterinary Officer or any other inspector may require any person who is an occupier of premises or a keeper of an animal on any premises –
  - (i) to compile and maintain such records (other than an inventory to which Article 6 of the 2006 Order refers) as the Veterinary Officer or other inspector may reasonably require and to produce such records to the Veterinary Officer or to any other inspector on request, and
  - (ii) to provide such assistance and information as the Veterinary Officer or other inspector may reasonably require for the purpose of carrying out his or her functions under these Regulations.

## **6 Vaccination may be required in protection zone**

- (1) Whilst a declaration under Regulation 3 that Jersey is a protection zone remains in force, the Veterinary Officer may require the occupiers of premises or the keepers of animals on premises –
  - (a) to cause the animals on those premises to be vaccinated against bluetongue; or
  - (b) to allow the animals on those premises to be vaccinated against bluetongue.
- (2) A requirement under paragraph (1) may be served by the publication of notice in the Jersey Gazette.

## **7 Vaccination prohibited in surveillance zone**

Whilst a declaration under Regulation 3 that Jersey is a surveillance zone remains in force, no person shall vaccinate an animal against bluetongue.

## **8 Compliance**

- (1) A person who is granted a licence under these Regulations or acts pursuant to a general licence granted under these Regulations must comply with the conditions of the licence.
- (2) A person of whom a requirement is made under these Regulations, whether by notice in writing served on the person or by notice published in the Jersey Gazette, must comply with the requirement.
- (3) If a person fails to comply with the conditions of a licence or a requirement made of that person under these Regulations, the Veterinary Officer may take such steps as are necessary or expedient to ensure that the requirement is complied with.
- (4) The amount of any expenses that are reasonably incurred under paragraph (3) shall be recoverable or behalf of the States as a civil debt in any court of competent jurisdiction, from the person in default.

## **9 Assistants for Veterinary Officer etc.**

The Veterinary Officer or any other inspector may, in carrying out his or her functions under these Regulations, do so with the assistance of any other person acting under his or her direction and control.

## **10 Powers of entry**

- (1) The Veterinary Officer or any other inspector may enter premises –
  - (a) for the purpose of the discharge of the functions conferred on that officeholder by these Regulations;
  - (b) for the purpose of monitoring compliance with any requirement imposed by or under these Regulations.
- (2) The powers of entry conferred by this Regulation may be exercised at any reasonable time or, in an emergency, at any time.
- (3) The Veterinary Officer or an inspector may, when entering premises, be accompanied by an assistant described in Regulation 9.
- (4) The Veterinary Officer or any other inspector shall, before entering premises, produce his or her authority, if so required.
- (5) The Veterinary Officer or any other inspector may only exercise the powers of entry conferred by this Regulation so as to enter any part of a dwelling if he or she believes that there is, in that part of the dwelling, any matter or thing that is relevant to the purposes described in paragraph (1).
- (6) If the Veterinary Officer or any other inspector enters premises that are unoccupied, he or she shall leave them as effectively secured against unauthorized entry as they were prior to his or her entry.

## **11 Offences**

- (1) A person who, without lawful authority or excuse, proof of which shall lie on him or her, does any of the following things, shall be guilty of an offence against these Regulations –
  - (a) if he or she acts in contravention of or fails to comply with any provision of these Regulations;
  - (b) if he or she refuses to an inspector admission to premises which the inspector is entitled to enter or examine, or obstructs, or impedes him or her in so entering or examining, or otherwise in any respect obstructs or impedes an inspector in the execution of his or her duty;
  - (c) if he or she fails to give to any person acting in the execution of these Regulations any

assistance or information which that person may reasonably require for the purpose of carrying out any functions under these Regulations;

(d) if he or she furnishes to any person acting in the execution of these Regulations any information which he or she knows to be false or misleading.

(2) Nothing in paragraph (1)(c) shall be construed as requiring any person to answer any question or give any information if to do so might incriminate the person.

(3) A person who does any of the following things shall be guilty of an offence against these Regulations –

(a) if, with intent to evade these Regulations, he or she alters or falsely makes, or ante-dates, or counterfeits, or offers, knowing the same to be altered, or falsely made or ante-dated, or counterfeited, a licence granted or purporting to be granted under these Regulations;

(b) if, for the purpose of obtaining such a licence he or she makes a declaration or statement which is false in any material particular;

(c) if he or she obtains or endeavours to obtain such a licence, by means of a false pretence.

## **12 Offences: general provisions**

(1) A person who aids, abets, counsels or procures the commission of an offence under these Regulations shall also be guilty of the offence and liable in the same manner as a principal offender to the penalty provided for that offence.

(2) Where an offence under these Regulations committed by a limited liability partnership or body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of –

(a) a person who is a partner of the partnership, or director, manager, secretary or other similar officer of the body corporate; or

(b) any person purporting to act in any such capacity,

the person shall also be guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for that offence.

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

## **13 Offences due to fault of another person**

(1) Where the commission by any person of an offence under these Regulations is due to the act or default of some other person, that other person shall be guilty of the offence.

(2) A person may be charged with and convicted of the offence by virtue of paragraph (1) whether or not proceedings are taken against another person.

## **14 Defence of due diligence**

(1) In any proceedings for an offence under these Regulations, it shall, subject to paragraph (2), be a defence for the person charged with the offence to prove that the person took all reasonable precautions and exercised all due diligence to avoid the commission of the offence personally or by a person under his or her control.

(2) If in any case the defence provided by paragraph (1) involves the allegation that the commission of the offence was due to an act or default of another person, or to reliance on information supplied by another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless –

- (a) at least 7 clear days before the hearing; and
- (b) where he or she has previously appeared before a court in connection with the alleged offence, within one month of the first such appearance,

the person has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of that other person as was then in his or her possession.

- (3) In paragraph (2) any reference to appearing before a court shall be construed as including a reference to being brought before a court.

## 15 Offences: penalty

If any person is guilty of an offence against these Regulations the person shall, for every such offence be liable to imprisonment for a term of one month and –

- (a) to a fine of level 4 on the standard scale; or
- (b) if the offence is committed with respect to more than 20 animals, to a fine of level 2 on the standard scale for each animal; or
- (c) where the offence is committed in relation to carcasses, fodder, litter, dung or another thing (exclusive of animals), to a fine of level 2 on the standard scale in respect of every 508 kg in weight thereof after the first 508 kg, in addition to the first fine of level 4 on the standard scale.

## 16 2006 Order amended

- (1) In the 2006 Order, after Article 13 there shall be inserted the following Article–

### “13A Powers of entry

- (1) The Veterinary Officer or any other inspector may enter premises –
    - (a) for the purpose of the discharge of the functions conferred on that officeholder by this Order;
    - (b) for the purpose of monitoring compliance with any requirement imposed by or under this Order.
  - (2) The powers of entry conferred by this Article may be exercised at any reasonable time or, in an emergency, at any time.
  - (3) The Veterinary Officer or an inspector may, when entering premises, be accompanied by an assistant described in Article 13.
  - (4) The Veterinary Officer or any other inspector shall, before entering premises, produce his or her authority, if so required.
  - (5) The Veterinary Officer or any other inspector may only exercise the powers of entry conferred by this Article so as to enter any part of a dwelling if he or she believes that there is, in that part of the dwelling, any matter or thing that is relevant to the purposes described in paragraph (1).
  - (6) If the Veterinary Officer or any other inspector enters premises that are unoccupied, he or she shall leave them as effectively secured against unauthorized entry as they were prior to his or her entry.
  - (7) Articles 34 and 34A of the Law shall not apply for the purposes of this Order.”
- (2) The amendment made by paragraph (1) may be repealed by Order of the Minister made under Article 3 of the Diseases of Animals (Jersey) Law 1956.

**17 Power to amend Regulations by Order**

The Minister may amend these Regulations by Order, for the purpose of implementing any amendment to the Directive, or a Directive that replaces it.

**18 Citation and commencement**

These Regulations may be cited as the European Communities Legislation (Bluetongue) (Jersey) Regulations 200 and shall come into force forthwith.

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- [\[1\]](#) *chapter 17.245*
  - [\[2\]](#) *chapter 02.400.17*
  - [\[3\]](#) *chapter 02.400*
  - [\[4\]](#) *chapter 02.400*
  - [\[5\]](#) *chapter 02.400.40*
  - [\[6\]](#) *chapter 02.400.56*