

# Rural Affairs, Islands and Natural Environment Committee

## 16<sup>th</sup> Meeting, 2022 (Session 6), Wednesday, 18 May

### Subordinate legislation

1. This paper supports the Committee's consideration of the [Non-Commercial Movement of Pet Animals \(Scotland\) Amendment Regulations 2022](#) (2022/131).
2. The SSI is subject to the negative parliamentary procedure. Further information about this procedure is set out in paragraphs 9 and 10.

### The Non-Commercial Movement of Pet Animals (Scotland) Amendment Regulations 2022 (2022/131)

3. The purpose of this instrument is to amend retained EU law (Annex 4 of Council Regulation (EU) 2013/576) which sets out the validity requirements for rabies antibody titration tests on pet dogs, cats and ferrets entering Great Britain.
4. The amendment regulations amend the validity requirements to allow the use, until 1 October 2022, of an alternative and quicker rabies antibody titration test, known as the Enzyme-Linked Immunosorbent Assay (ELISA) test, which has a turnaround time of two to three days, compared to the current Fluorescent Antibody Virus Neutralisation (FAVN) test, which has a turnaround time of two weeks.
5. Under the current rabies requirements for pet dogs, cats and ferrets entering Great Britain from a high rabies risk country such as Ukraine, the FAVN test is the only type of antibody titre test that can be used for entry into Great Britain and to authorise the release from quarantine if the animal is non-compliant on entry. These Regulations give Scottish Ministers the power, for a time limited period, to authorise the ELISA test as an alternative antibody titre test.
6. The policy note states these amendments would "address a shortage of quarantine places to accommodate pet animals accompanying people fleeing Ukraine" and "enable people being reunited with their pets earlier, while also protecting public health". Further information is set out in the policy note, provided at **Annexe A**.
7. The SSI was laid on 8 April 2022 and came into force on 9 April 2022. The Scottish Government has, therefore, breached the 28-day rule which requires that a negative SSI must be laid before the Scottish Parliament at least 28 days before the instrument comes into force. In these circumstances, the Scottish Government must write to the Presiding Officer setting out the reasons for the breach. The Scottish Government's letter is provided at **Annexe B**. The letter explains the breach was necessary as urgent action was required to relieve

pressures on quarantine facilities as a result of the high volume of pets entering Great Britain from Ukraine.

## **Consideration by the Delegated Powers and Law Reform Committee**

8. The DPLRC considered this instrument at its meeting on 26 April 2022. The Committee agreed to draw the instrument to the attention of the Parliament on the basis of the breach of the 28-day rule but concluded it was “content with the explanation provided by the Scottish Government for failure to comply with the laying requirements”.<sup>1</sup>
9. Separately, the Committee noted that the new test provides quicker results than the test traditionally used in the past. Given the expedited timescale for bringing the instrument into force, the Committee agreed “to highlight this change to the lead committee, which they may wish to take into account when considering this instrument”.

## **Parliamentary procedure – negative instruments**

10. The negative parliamentary procedure is set out in Chapter 10 of the Parliament’s Standing Orders. Instruments subject to the negative procedure come into force on a specified date and remain in force unless it is annulled by the Parliament. Thus, the Parliament does not need to agree to the instrument in order for it to come into force.
11. The Parliament may, however, and on the recommendation of the lead committee, recommend the instrument be annulled within 40 days of the instrument being laid. Any MSP may by motion propose to the lead committee that the committee recommends “that nothing further is to be done under the instrument”. Any motion for annulment would be debated by the lead committee and a report made to Parliament.

## **For decision**

12. **The Committee is invited to note the instrument.**

**Rural Affairs, Islands and Natural Environment Committee clerks  
May 2022**

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<sup>1</sup> Delegated Powers and Law Reform Committee, 25<sup>th</sup> Report 2022, paragraphs 22 to 28 and available at: [Subordinate Legislation Considered by the Delegated Powers and Law Reform Committee on 26 April 2022 \(azureedge.net\)](https://www.azureedge.net/subordinate-legislation-considered-by-the-delegated-powers-and-law-reform-committee-on-26-april-2022)

## Policy Note

# The Non-Commercial Movement of Pet Animals (Scotland) Amendment Regulations 2022

## SSI 2022/131

1. The above instrument was made in exercise of the powers conferred by Articles 38 and 39(6) of Regulation (EU) 576/2013 of the European Parliament and of the Council on the non-commercial movement of pet animals. The instrument is subject to negative procedure.

### Purpose of the instrument

2. To permit until 1 October 2022, an alternative, quicker rabies antibody titration test for the movement of pet animals into Scotland and release from quarantine, given the unprecedented number of pet animals expected to accompany persons displaced by the conflict in Ukraine.

### Policy objectives

3. These Regulations have been made to address a shortage of quarantine places to accommodate pet animals accompanying people fleeing Ukraine and amends retained direct EU legislation to authorise the use of an additional rabies antibody titre test for pet animals entering Scotland. Permitting the use of an additional test will significantly speed up the rabies testing process for pet animals entering Scotland at a time when the system faces a significant backlog due to pet animals entering with their owners fleeing from Ukraine. This will reduce the overall burden on quarantine spaces and enable people being reunited with their pets earlier, while also protecting public health.
4. At present Ukraine is currently an unlisted (high rabies risk) country in terms of pet travel. Annually there are about 1,800 rabies recorded cases in animals in Ukraine, of which more than half are observed in pet dogs and cats and livestock and the others in wildlife and sporadic cases in humans have been registered despite preventive measures. The existing entry requirements for pets (cats, dogs and ferrets) to enter Great Britain directly from Ukraine under the PET Travel Scheme rules are that they are required to:
  - i. be microchipped;
  - ii. have a valid rabies vaccination by an authorised vet after they are 12 weeks old;
  - iii. pass a post-vaccination rabies titre test at least 30 days after the vaccination; and
  - iv. to wait a further three months before entering Great Britain.
5. In the case of dogs, they are treated for *Echinococcus multilocularis* (tapeworm) with an approved product not less than 24 hours and not more than 120 hours

prior to arrival in GB. This must be evidenced in the pet passport or health certificate.

6. As part of the current rabies requirements for Ukrainian animals entering Great Britain, there is one type of antibody titre test that can be used for entry into Great Britain and to authorise the release from quarantine if the animal is non-compliant on entry. This test (the Fluorescent Antibody Virus Neutralisation (FAVN) test) is currently used for the 30-day titre test and has a turnaround time of up to two weeks. These Regulations give Scottish Ministers the ability, for a time limited period (to 1 October 2022) to authorise an alternative antibody titre test (a specific form of an enzyme-linked immunosorbent assay (ELISA) test), which has a turnaround of 2-3 days.
7. The ELISA test however does not currently meet the requirements set out in Annex 4 to the Pet Travel Regulation (retained Regulation (EU) 576/2013), as it does not detect neutralising antibodies which the current testing requirements require. However, APHA national reference laboratory experts and veterinary colleagues have advised that the ELISA test could be relied on to satisfy ourselves quickly that the pet is vaccinated and has a sufficient level of protection against the rabies virus. These Regulations would apply to the use of ELISA tests that have met the validation criteria of the OIE biological standards committee.
8. The changes that would be made by these Regulations will enable Scottish Minister to take this alternative, quicker option to enable pets to be removed from quarantine, or to be placed in the most appropriate quarantine facilities for that animal. This will ultimately reduce the overall burden on quarantine spaces and enable people being reunited with their pets earlier than if they went through the full quarantine process.

## **Consultation**

9. As required by Article 39(7) of the Pet Travel Regulations Defra undertook a GB-wide consultation exercise and consulted the Animal and Plant Health Agency (APHA), devolved administrations and members of the GB Exotic Disease Core Group for Rabies, which includes those representing the interests of veterinarians, pet charities and public health bodies. These consultees were in agreement on the deployment of the ELISA test to relieve pressure on quarantine facilities.

## **Impact assessments**

10. An impact assessment has not been produced as no significant impact on the private, voluntary or public sector is foreseen.
11. The Cabinet Secretary for Rural Affairs and Islands confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

## Letter to the Presiding Officer from the Scottish Government, 8 April 2022

The Non-Commercial Movement of Pet Animals (Scotland) Amendment Regulations 2022, SSI 2022/131 was made by the Scottish Ministers under Articles 38 and 39(6) of Regulation (EU) 576/2013 of the European Parliament and of the Council on the non-commercial movement of pet animals on Friday 8 April 2022 and laid before the Scottish Parliament on the same day. It comes into force on Saturday 9 April 2022. Section 28(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 sets out that a negative SSI must be laid before the Scottish Parliament at least 28 days before the instrument comes into force. On this occasion, this has not been complied with and to meet the requirements of section 31(3) that Act, this letter explains why.

It is anticipated that the UK will see an influx of persons displaced by the conflict in Ukraine over the coming days and weeks, many of whom will have pets. Current estimates suggest that up to 1,000 - 2,000 pets may arrive in GB from Ukraine, and that the majority of these animals will not be compliant with the entry requirements. Great Britain has run out of official approved quarantine spaces and plans are already underway to try to expand existing space but this will take time. As part of the current rabies requirements for high risk countries like Ukraine, there is one type of antibody titre test that can be used for animals entering GB to authorise their release from quarantine if the animal is non-compliant on entry. This test (the Fluorescent Antibody Virus Neutralisation (FAVN) test<sup>i</sup>) is currently used for the 30 day titre test and has a turnaround time of up to two weeks. The SSI will give Scottish Ministers the ability to authorise an alternative antibody titre test (a specific form of an enzyme-linked immunosorbent assay (ELISA) test), which has a turnaround of 2-3 days. The purpose of this test will be to release quarantine spaces sooner than if the animals had had the FAVN test and reduce time animals need spend in quarantine. We therefore want to be able to use the ELISA test for a time limited period and where Scottish Ministers authorise its use.

Given the immediate pressures on existing quarantine facilities caused by these unprecedented circumstances, it is necessary to make this change in the law urgently so that the alternative test is available for use as soon as possible to enable Scottish Ministers to take this alternative, quicker option to identify those pets that may safely be released from quarantine, and, where animals require to remain in quarantine, to allow an assessment to be made based on risk where they were placed. This will immediately help to reduce the overall burden on quarantine spaces and enable people to be reunited with their pets earlier.

Similar Regulations have been laid for England<sup>2</sup> and came into force on Tuesday 5 April 2022 and the Welsh Government is planning on laying its Regulations to a similar timeframe to the Scottish Government.

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<sup>i</sup> [Fluorescent Antibody Virus Neutralisation \(FAVN\) Tests \(defra.gov.uk\)](https://www.defra.gov.uk)