
STATUTORY INSTRUMENTS

1981 No. 1115

The Diseases of Animals (Northern Ireland) Order 1981

PART I

INTRODUCTORY

Title and commencement

1.—(1) This Order may be cited as the Diseases of Animals (Northern Ireland) Order 1981.

(2) This Order shall come into operation on the expiration of one month from the day on which it is made.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954^{F1} shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order

“aerodrome” means any area of land or water designed, equipped, set apart or commonly used for affording facilities for the landing and departure of aircraft;

“animal” means an animal of any kind specified in Part I of Schedule 1;

“carcase” means the carcase of an animal or bird and includes part of a carcase, and the meat, bones, hide, skin, hair, feathers, hooves, horns, offal or other part of an animal or bird separately or otherwise, or any portion of it;

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

“cattle plague” means rinderpest or the disease commonly called cattle plague;

“the Customs Acts” means the Customs and Excise Management Act 1979^{F2} and any enactment amending or substituted for that Act;

“the Department” means the Department of Agriculture;

“disease”, in relation—

(a) to animals, means any disease specified in Part III of Schedule 1; and

(b) to poultry, means any disease specified in Part IV of Schedule 1;

“diseased” means affected with disease;

“eggs” means the eggs of poultry;

“fodder” means hay or other substance (including milk) used for food of animals or poultry;

“glanders” includes that form of glanders which is commonly known as farcy;

“horse” includes ass and mule;

“imported”, as applied to animals, poultry and things, means brought by any means into Northern Ireland from a country out of Northern Ireland;

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“in contact with”, in relation to a diseased or suspected animal or bird, means being or having been in the same field, shed, stable, pen or other place, or in the same herd or flock as, or otherwise in contact with, that animal or bird;

“inspector” means a person appointed by the Department to be an inspector for the purpose of this Order;

“justice” means justice of the peace;

“landing”, in relation to imported animals, poultry, or things, means landing them from a ship, vessel, aircraft or vehicle, or otherwise introducing them into Northern Ireland;

“landing-place” means part of a port or aerodrome, or any other place, defined by an order of the Department for the purpose of the landing of imported animals or poultry;

“litter” means straw or other substance commonly used for bedding or otherwise for or about animals or poultry;

“modify” means making additions, omissions, amendments, extensions, restrictions and substitutions;

“notice” means notice in writing;

“order of the Department” means an order made by the Department under this Order;

“pleuro-pneumonia” means contagious pleuro-pneumonia of cattle;

“poultry” means birds of any of the kinds specified in Part II of Schedule 1, and “bird” shall be construed accordingly;

“shipping” includes carriage by air and carriage in a vehicle;

“statutory provision” has the meaning assigned to it by section 1 (f) of the Interpretation Act (Northern Ireland) 1954;

“suspected” means suspected of being diseased;

“swine-fever” means the disease known as typhoid fever of swine, soldier purples, red disease, hog cholera or swine-plague;

“veterinary inspector” means an inspector being a member of the Royal College of Veterinary Surgeons, or any veterinary practitioner qualified as approved by the Department;

“veterinary surgeon” includes any person lawfully qualified to practise veterinary surgery in Northern Ireland.

(3) For^{F3} all or any of] the purposes of this Order, the Department may, by order, modify the provisions of Schedule 1; and an order made under this paragraph may modify the provisions of Schedule 2 if it appears to the Department that the modifications are necessary or expedient for the purposes of that order.

(4) For the purposes of section 42 (2) of the Northern Ireland Constitution Act 1973^{F4} (validity of Acts of the Parliament of Northern Ireland), provisions of this Order which re-enact provisions of an Act of the Parliament of Northern Ireland shall be deemed to be provisions of such an Act.

(5) Provisions of this Order which re-enact provisions of an order or regulations made under any statutory provision shall have no greater effect by virtue of their re-enactment.

F1	1954 c. 33 (NI)
F2	1979 c. 2
F3	1994 NI 6
F4	1973 c. 36

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PART II

DISEASES OF ANIMALS AND POULTRY

Eradication of disease

Expenditure for the eradication of diseases

3.—(1) Without prejudice to any power conferred on it by any other enactment, the Department may, with the approval of the Department of Finance, expend such sums as the Department thinks fit with the object of eradicating or, so far as practicable, preventing diseases of animals and poultry in Northern Ireland.

(2) Without prejudice to paragraph (1), the Department may by order made with the approval of the Department of Finance, make a scheme under which the owner of any herd of cattle in Northern Ireland may be paid such sums as the Department thinks fit to be expended with the object of securing so far as practicable, that the herd will be free from tuberculosis.

(3) With a view to promoting the breeding and distribution of stocks of poultry free from disease and without prejudice of paragraph (1), the Department may, with the approval of the Department of Finance, make arrangements for persons carrying on, at any premises in Northern Ireland recognised by the Department for the purposes of this paragraph, the business of breeding and distributing stocks of poultry or of producing and distributing hatching eggs, to be afforded, free of charge, facilities for having poultry, whether alive or dead, inspected, tested and examined with the object of determining whether the birds are free from disease, or from what cause they have died.

(4) In this Article “disease” is not restricted by its definition in Article 2 (2).

Eradication areas and attested areas

4. The Department may by order—

- (a) where the Department is satisfied that a substantial majority of the animals or poultry in any area are free from any disease declare that area to be an eradication area for purposes connected with the control of that disease;
- (b) where the Department is satisfied that any disease of animals or poultry is for practical purposes non-existent in any area, declare that area to be an attested area for purposes connected with the control of that disease;
- (c) prohibit or regulate the movement of animals or poultry into, out of, or within any area which is an eradication area or an attested area and provide for exemptions from any such prohibition by means of the grant of licences^[F5] subject to such conditions as may be specified in the licences].

F5 1984 NI 2

VALID FROM 12/03/2010

[F6] Biosecurity guidance

4A.—(1) The Department shall prepare guidance on the appropriate biosecurity measures to be taken in relation to any disease specified by order of the Department.

(2) After preparing a draft of the guidance the Department—

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- (a) shall send a copy of the draft to such persons and organisations as it thinks are representative of those having an interest in biosecurity measures;
 - (b) shall consider any representations made to it about the draft by such persons and organisations;
 - (c) may amend the draft accordingly.
- (3) After the Department has proceeded under paragraph (2) it shall publish the guidance in such manner as it thinks appropriate.
- (4) The Department shall from time to time review the guidance and if it thinks it appropriate revise the guidance.
- (5) Subject to paragraph (6), paragraphs (1) to (3) apply to a revision of the guidance as they apply to its preparation.
- (6) If the Department thinks that it is necessary to revise the guidance urgently it may publish revised guidance without proceeding under paragraph (2).
- (7) Biosecurity measures are measures taken to prevent the spread of causative agents of disease.
- (8) In paragraph (7), “causative agent” includes any virus, bacterium and any other organism or infectious substance or particle which may cause or transmit disease.
- (9) It is immaterial that anything done for the purposes of paragraphs (1) to (3) is done before the coming into operation of section 7 of the Diseases of Animals Act (Northern Ireland) 2010.

F6 Arts. 4A, 4B inserted (12.3.2010) by Diseases of Animals Act (Northern Ireland) 2010 (c. 1), ss. 7, 22(1); S.R. 2010/70, art. 2

VALID FROM 12/03/2010

Biosecurity compliance

4B.—(1) If a person to whom paragraph (2) applies fails to comply with guidance which has been published under Article 4A(3) and has not been withdrawn, that person is not by reason only of that failure liable in any civil or criminal proceedings but the guidance is admissible in evidence in such proceedings and a court may take account of any failure to act in accordance with it in deciding any question in the proceedings.

(2) This paragraph applies to—

- (a) any person having functions under this Order;
- (b) any person who is the owner or occupier of premises on which animals or poultry are kept;
- (c) any person who is the owner of, or has charge of, animals or poultry;
- (d) any person who is under the direction or control of a person mentioned in subparagraphs (a) to (c).

(3) The Department may by order prescribe the circumstances in which it may withhold, either wholly or partly, compensation or any other payment in respect of an animal slaughtered under this Order where—

- (a) the slaughter has been necessitated by brucellosis;
- (b) guidance relating to brucellosis has been published under Article 4A(3) and has not been withdrawn; and

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(c) the owner or person having charge of the animal has failed to comply with the guidance.]

F6 Arts. 4A, 4B inserted (12.3.2010) by Diseases of Animals Act (Northern Ireland) 2010 (c. 1), ss. 7, 22(1); S.R. 2010/70, art. 2

Prevention or checking of disease

- 5.—(1) ^{F7} . . . the Department may by order—
- (a) prescribe modes of cleansing and disinfection;
 - (b) prescribe and regulate the marking of animals or poultry^{F8} and regulate the sale, supply, distribution, use and destruction of any article intended for use in such marking];
 - (c) prescribe and regulate the seizure, detention and disposal of a diseased or suspected animal or bird exposed, carried, kept or otherwise dealt with in contravention of an order of the Department;
 - (d) prescribe and regulate the liability of the owner, consignor or consignee of an animal or bird such as is mentioned in sub-paragraph (c) to the expenses connected with the seizure, detention and disposal;
 - (e) prescribe and regulate the destruction, burial, disposal or treatment of carcasses of animals or poultry dying while diseased or suspected;
 - (f) prohibit or regulate the digging up of carcasses which have been buried;
 - (g) prescribe and regulate the disinfection of the clothes of persons employed about, or coming in contact with, or likely to have been in contact with, diseased or suspected animals or poultry and the use of precautions against the spreading of disease by such persons;
 - (h) prohibit or regulate the sale or use of any kind of fodder or litter by which disease might be spread;
 - (i) prescribe and regulate the use and distribution of any thing, whether animate or inanimate, by or by means of which it appears to the Department that any disease might be carried or transmitted;
 - (j) prohibit or regulate the collection, holding or processing of carcasses or of animal or poultry products or any thing, whether animate or inanimate, which has been in contact with such carcasses or products;
 - (k) prescribe and regulate the payment and recovery of expenses in respect of animals or poultry;
 - (l) prescribe, regulate and secure the periodical treatment of all sheep by effective dipping or by the use of some other remedy for sheep scab;
 - (m) provide for exemptions from any such prohibitions by means of the grant of licences^{F8} subject to such conditions as may be specified in the licences].
- (2) The Department may provide and maintain sheep dipping facilities and afford to the public, upon such terms and conditions (including conditions as to payment) as the Department may think proper, the use of those facilities and of any appliances and materials which are necessary to make that use effective, so, however, that nothing shall be done under this paragraph so as to affect injuriously the water in any stream, reservoir, aqueduct, well, pond or place constructed or used for the supply of water for any domestic purpose.

F7 1994 NI 6

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F8 1984 NI 2

VALID FROM 12/03/2010

[^{F9}Deliberate infection

5A.—(1) A person commits an offence if, without lawful authority or excuse (proof of which shall lie on him), he knowingly or recklessly does any act which causes or is intended to cause an animal or bird to be infected with a disease.

(2) A person commits an offence if, without lawful authority or excuse (proof of which shall lie on him), that person acquires or takes possession of an animal or bird which he knows, or ought reasonably to know, to be infected with a disease.

F9 Arts. 5A, 5B inserted (12.3.2010) by Diseases of Animals Act (Northern Ireland) 2010 (c. 1), ss. 10(1), 22(1); S.R. 2010/70, art. 2

VALID FROM 12/03/2010

Deliberate infection: disqualification

5B.—(1) If a person is convicted of an offence under Article 5A the court may by order disqualify that person, for such period as it thinks fit, from keeping or dealing in—

- (a) any animals or poultry, or
- (b) any animals or poultry of a specified kind.

(2) If a person is convicted of an offence under Article 5A and, at any time after the date of that conviction, that person is convicted of a further offence under that Article, the court shall by order disqualify that person, for such period as it thinks fit, from keeping or dealing in—

- (a) any animals or poultry; or
- (b) any animals or poultry of a specified kind.

(3) The court may suspend the operation of an order made under paragraph (1) or (2)—

- (a) for such period as it thinks necessary to enable arrangements to be made for the keeping of any animals or poultry to which the disqualification relates;
- (b) pending an appeal.

(4) A person who is disqualified under paragraph (1) or (2) may from time to time apply to the court which imposed the disqualification to remove it or vary it.

(5) On an application under paragraph (4) the court may by order—

- (a) refuse the application,
- (b) remove the disqualification, or
- (c) vary the disqualification to apply it only to such animals or poultry or such kind of animals or poultry as it specifies.

(6) In considering an application under paragraph (4) the court may have regard to—

- (a) the nature of the offence in respect of which the disqualification was imposed;
- (b) the character of the applicant;

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(c) the conduct of the applicant since the disqualification was imposed.

(7) The first application under paragraph (4) must not be made before the end of the period of one year starting with the date the disqualification starts.

(8) A further application shall not be made before the end of the period of one year starting with the date of the court's last order.

(9) For the purposes of this Article keeping or dealing in an animal or bird includes—

(a) having custody, control or possession of an animal or bird;

(b) being concerned in the management or control of a body (whether or not incorporated) whose activities include keeping or dealing in animals or poultry.]

F9 Arts. 5A, 5B inserted (12.3.2010) by Diseases of Animals Act (Northern Ireland) 2010 (c. 1), ss. 10(1), 22(1); S.R. 2010/70, art. 2

Seizure and destruction of carcasses, etc., liable to spread disease

6.—(1) The Department, if satisfied that it is expedient for the purpose of preventing the spread of disease, may seize any carcase, fodder, feeding stuffs, litter, milk, eggs, or fertilisers and destroy, bury, dispose of or treat any thing so seized.

(2) The Department shall pay compensation for any carcase (not being a carcase of an animal or bird which has died of disease or was infected with disease at the time of its slaughter by a person other than the Department), fodder, feeding stuffs, litter, milk, or fertilisers seized under paragraph (1) and, subject in the case of imported eggs to any order made under Article 30, for eggs so seized.

(3) The compensation payable under paragraph (2) for any thing seized under paragraph (1) shall be the value of that thing at the time of seizure and shall be calculated as if it was not affected with disease at that time.

(4) Where any thing destroyed, buried or disposed of under an order made under sub-paragraph (e) of Article 14 could have been seized under paragraph (1) of this Article, the Department shall pay the like compensation, if any, for that thing as if it had been so seized at the time of the destruction, burial or disposal.

(5) Paragraph (7) of Article 18 shall have effect in relation to things seized under this Article as it has effect in relation to animals slaughtered at the direction of the Department and the carcasses of such animals.

Modifications etc. (not altering text)

C1 Art. 6 applied (10.2.2007) by Avian Influenza and Influenza of Avian Origin in Mammals Regulations (Northern Ireland) 2007 (S.R. 2007/68), reg. 84(a) (with reg. 3)

C2 Art. 6 applied (24.3.2007) by Avian Influenza (H5N1 in Wild Birds) Regulations (Northern Ireland) 2007 (S.R. 2007/208), reg. 22(a)

Control of zoonoses

7.—(1) The Department may by order designate any disease of, or organism carried in, animals or poultry which in the opinion of the Department constitutes a risk to human health.

(2) Where any disease or organism is for the time being designated under this Article, the Department may by order—

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- (a) provide for any provision of this Order which has effect in relation to the disease to have effect subject to such modifications as may be specified in the order;
 - (b) apply any provision of this Order, subject to any modifications so specified, in relation to the presence of the organism in an animal or bird as if the presence of the organism were a disease.
- (3) The Department may by order require a person who in such circumstances as are specified by the order, knows or has reason to suspect that an animal or bird of such description as is specified in the order is or was—
- (a) affected with a disease designated under this Article; or
 - (b) a carrier of an organism so designated,
- to furnish to such person and in such form and within such period as are specified in the order such information relating to the animal or bird as is so specified.
- (4) If it appears to the Department that a person may have information relating to an animal or bird affected with a disease designated under this Article or an animal or bird which is a carrier of an organism so designated, the Department may by notice require him to furnish to such person and in such form and within such period as are specified in the notice such information relating to the animal or bird as he possesses and is so specified.
- (5) Where an inspector has reason to believe that an animal or bird such as is mentioned in paragraph (4) is or has been on any land he may, on production if required of his credentials,—
- (a) enter the land and make such tests and take such samples of any animal, bird, feeding stuff, litter, dung, vessel, pen, vehicle or other thing whatsoever which is on, or forms part of the land as he thinks appropriate for the purpose of ascertaining whether such an animal or bird is or has been on the land; and
 - (b) require the owner or person having charge of any animals or poultry on the land to take such reasonable steps as the inspector may specify for the purpose of collecting or restraining them so as to facilitate the exercise in relation to them of the powers conferred on the inspector by sub-paragraph (a).
- (6) In this Article “disease” is not restricted by its definition in Article 2(2).

Animal or poultry health schemes

- 8.**—(1) Without prejudice to the powers exercisable by the Department by virtue of any other provision of this Order, the Department may, by orders made with the approval of the Department of Finance after consultation with any bodies which appear to the Department to be substantially representative of interests concerned, make schemes for the purpose of—
- (a) keeping any animals or poultry, so far as practicable, free from disease and in good health; or
 - (b) controlling, and, so far as practicable, reducing the incidence of, any disease of animals or poultry; or
 - (c) compensating in whole or in part persons who incur loss or expense in consequence of the presence of any disease in any animal, bird or carcase.
- (2) Without prejudice to the generality of paragraph (1), a scheme under this Article may provide for—
- (a) the examination, testing or treatment of animals or poultry, of a description to which the scheme applies, or the carcasses of such animals or poultry, by persons exercising powers under the scheme, including—

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- (i) the entry by such persons on or into any land, building, shed, pen or place where any such animals, poultry or carcasses are kept or are suspected on reasonable grounds to be kept;
 - (ii) the facilities to be made available to such persons by the owners or persons in charge of any such animals, poultry or carcasses or the owners or occupiers of, or persons employed on or in, any such land, building, shed, pen or place; and
 - (iii) the payments to be made to persons exercising such powers in respect of any such examination, testing or treatment, and the persons by whom, and the time, place or manner at or in which, such payments are to be made and the recovery of sums so payable;
- (b) the slaughter or the isolation and maintenance of any such animals or poultry;
- (c) the regulation of the movement or exposure for sale of such animals or poultry;
- (d) the cases in which compensation may be paid to persons incurring any loss or expense in consequence of—
- (i) any treatment carried out under the scheme; or
 - (ii) the presence of any disease to which the scheme relates in any animal, bird or carcase; and the manner in which the amounts of such compensation are to be determined;
- (e) the raising of—
- (i) all or any part of the money out of which such compensation is to be paid; and
 - (ii) the sums necessary to defray the expenses incurred in connection with the raising of that money and the payment of that compensation;
- by means of levies imposed in respect of animals, poultry or carcasses or the produce, produced in Northern Ireland of animals or poultry of a description to which the scheme applies on persons carrying on a business involving the rearing, buying, selling or slaughtering of such animals or poultry, or producing produce from such animals or poultry;
- (f) the duties of the persons by whom, under the terms of the scheme, any sum raised by means of that levy is to be paid, collected or remitted;
- (g) the time, place or manner at or in which any such sum is to be paid and the recovery of sums so payable;
- (h) the records, returns, notices and certificates which are to be kept, made or given for the purposes of the scheme, including the inspection, verification and copying of records by an officer of the Department.
- (3) The persons upon whom duties may be imposed under paragraph (2) (f) in connection with the collection and remittance of sums raised by means of levies shall include any body established by or under any enactment for regulating the marketing of any agricultural product or otherwise for the benefit of, or any part of, the agricultural industry (including the livestock and livestock products industries), and such a body may collect any such sum under that paragraph (and may so collect it by deduction, set-off or otherwise).
- (4) A scheme under this Article may be mandatory or subject to the voluntary participation of persons affected by the scheme.
- (5) The prohibition in Article 49 on the making of charges by the Department for any thing under this Order or by inspection or other act precedent to such a thing shall not extend to prevent the imposition of levies in pursuance of paragraph (2) (e) or the making of charges in accordance with the provisions of a scheme under this Article in respect of any examination, testing, treatment or

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other service or facility whatsoever carried out or provided by or on behalf of the Department under the scheme.

(6) In this Article “disease” is not restricted by its definition in Article 2(2).

VALID FROM 12/03/2010

[^{F10}Control of vaccines

8A.—(1) The Department may by order prohibit or regulate—

- (a) the manufacture, import, possession, sale or supply of such vaccines as may be specified in the order;
- (b) the administration to any animal or bird of such vaccines as may be specified in the order.

(2) Without prejudice to paragraph (1), an order under that paragraph may—

- (a) specify the persons who may manufacture, import, possess, sell, or supply vaccines;
- (b) specify the persons who may administer vaccine to any animal or bird;
- (c) provide for the issue of licences for the manufacture, import, possession, sale, supply or administration of vaccines, subject to such conditions as may be specified in the licences;
- (d) require any person—
 - (i) to keep such records and retain such documents as may be specified in the order;
 - (ii) to furnish to the Department such information and returns as may be so specified;
 - (iii) to permit an inspector to inspect and take extracts from such records and documents;
- (e) provide for the seizure, detention and disposal of any vaccine manufactured, imported, possessed, sold or supplied in contravention of the order;
- (f) provide for the seizure, detention and disposal of any animal or bird to which vaccine has been administered in contravention of the order.]

F10 Art. 8A inserted (12.3.2010) by [Diseases of Animals Act \(Northern Ireland\) 2010 \(c. 1\), ss. 12, 22\(1\); S.R. 2010/70, art. 2](#)

Power to obtain information for the purpose of Article 3

9.—(1) For the purpose of obtaining information required for the purposes of Article 3, the Department may authorise any veterinary inspector or other officer of the Department to inspect animals or poultry.

(2) Any person authorised by the Department under paragraph (1) may, for the purpose of any inspection to be carried out by him, at all reasonable times, upon production of his authority on demand enter on any land and apply such tests and take such samples as he considers necessary.

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Separation and treatment of diseased animals and poultry and notice of disease

Separation of diseased animals and poultry and notice of disease

10.—(1) Every person having in his possession or under his charge an animal affected with disease shall—

- (a) as far as practicable keep that animal separate from animals not so affected; and
- (b) with all practicable speed give notice of the fact of the animal being so affected to the Department or to a member of the Royal Ulster Constabulary stationed in the district in which the animal so affected is.

(2) Any person who knows or suspects that an animal (whether in captivity or not) is affected with rabies shall give notice of that fact to a member of the Royal Ulster Constabulary unless—

- (a) he believes on reasonable grounds that another person had given notice under this Article in respect of that animal, or
- (b) he is exempted from doing so by an order under Article 60.

(3) A veterinary surgeon who examines any animal or the carcase of any animal and is of the opinion or suspects that the animal is diseased or was diseased when it died or when it was slaughtered shall with all practicable speed give notice of the disease or suspicion of disease to the Department or to a member of the Royal Ulster Constabulary stationed in the district in which the animal or carcase is.

(4) The member of the Royal Ulster Constabulary to whom notice is given shall forthwith give information of it to such person or authority as the Department by order directs.

(5) Where the Department is satisfied of the occurrence of any disease communicable to man, the Department shall forthwith notify the Health and Social Services Board established under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972^{F11} within whose area that disease has occurred.

[^{F12}(6) The Department may by order—

- (a) prescribe and regulate the notice to be given to or by any person or authority in case of any particular disease or suspicion of it or in case of the illness of an animal and supplement or vary for those purposes any of the provisions of this Article;
- (b) prescribe and regulate the separation of suspected or diseased animals and poultry from animals and poultry which are not suspected or affected with disease;
- (c) prescribe and regulate the notification of illness of, or disease or suspicion of disease in, poultry.]

(7) This Article is subject to any provision in Part III of Schedule 1.

F11 1972 NI 14

F12 1994 NI 6

Treatment of animals or poultry exposed to infection

11. For the purpose of preventing the spread of disease the Department may cause such treatment as it considers necessary to be given to any animal or bird which has been in contact with a diseased animal or bird or which appears to the Department to be or to have been in any way exposed to the infection of disease.

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Infected places and areas

General provisions as to infected places and areas

12.—(1) ^{F13} . . . the Department may by order, prescribe—

- (a) the cases in which places and areas are to be declared to be infected with a disease,
- (b) the authority, mode, and conditions by, in, and on which such declarations are to be made;
- (c) the effect and consequence of such declarations;
- (d) the duration and discontinuance of such declarations; and
- (e) any other matters connected with such declarations.

(2) An order under paragraph (1) prescribing the cases in which areas are to be declared to be infected with rabies may—

- (a) provide for the destruction in an area declared to be so infected, by persons authorised in accordance with the order, of foxes and such other wild animals as may be prescribed by the order (not in either case being animals held in captivity);
- (b) authorise any person to enter any land (other than a dwelling-house) for the purpose of carrying out, or of deciding whether to carry out, the destruction there of animals in accordance with the order;
- (c) authorise the erection of fences or other obstacles to restrict the movement of animals into and out of an area where destruction is or will be carried out;
- (d) regulate the ownership and disposal of the carcasses of animals destroyed in accordance with the order;
- (e) prohibit any person from obstructing the destruction of animals in accordance with the order and from interfering with the carcasses of animals destroyed;
- (f) authorise the use of methods of destruction which would otherwise be unlawful;
- (g) require notice to be served, in such circumstances as may be prescribed by the order, of the death in an area declared to be so infected of such domestic or wild animals as may be prescribed;
- (h) regulate the ownership and disposal of the carcasses of animals whose deaths are required to be notified under sub-paragraph (g);
- (i) require and regulate the vaccination, confinement and control in such an area of such domestic animals and animals held in captivity as may be prescribed by the order;
- (j) authorise the seizure and detention and the disposal or destruction of any animal in respect of which any provision made under sub-paragraph (i) is not complied with;
- (k) authorise any person to enter any land for the purpose of seizing or destroying any animal in pursuance of the order; and
- (l) provide for the division of an area into zones (whether defined by reference to distance from the places within the area where diseased animals have been found or otherwise) and for the consequences which may follow a declaration to be different for different zones;

and such an order shall make provision as to the steps to be taken to inform the occupier of any land where it is proposed that animals should be destroyed and other persons who may be there, of the proposal and of the methods of destruction to be used.

(3) Every place or area declared to be infected with a disease shall be an infected place or area for the purposes of this Order.

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(4) Where, in accordance with the provisions of this Order, a place or an area or a portion of an area is declared free from a disease, then, from the time specified in that behalf by the Department, the place or area or that portion of the area shall cease to be, or to be in, an infected place or area.

(5) Any declaration or notice of the following description shall be conclusive evidence to all intents of the existence or past existence or cessation of the disease and of any other matter on which the declaration or notice proceeds—

- (a) a declaration of the Department declaring a place or area to be an infected place or area, or declaring a place or area, or a portion of an area, to be free from disease; or
- (b) a notice served in pursuance of directions of the Department under an order made under this Article.

F13 1994 NI 6

Power to destroy wild life

13.—(1) Without prejudice to any other powers conferred on the Department under this Order, where the Department is satisfied in the case of any area,—

- (a) that there exists among the wild members of one or more species in the area a disease, other than rabies, which has been or is being transmitted from members of that or those species to livestock of any kind in the area; and
- (b) that destruction of wild members of that or those species in that area is necessary in order to eliminate, or substantially reduce the incidence of, that disease in livestock of any kind in the area;

the Department may, after consultation with the Department of the Environment and subject to the following provisions of this Article, by order, provide for the destruction of wild members of that or those species in that area.

(2) An order under this Article shall specify the area to which it applies, the disease to which it applies, and the one or more species to which it relates.

(3) An order under this Article providing for the destruction of wild members of one or more species in any area may—

- (a) where the Department is satisfied, having regard to all relevant considerations and, in particular, the need to avoid causing unnecessary suffering to wild members of the species in question, that use of the method or methods in question is the most appropriate way of carrying out that destruction, authorise the use of methods of destruction which would otherwise be unlawful;
- (b) make provision for ensuring that destruction of wild members of any species to which the order relates is properly and effectively carried out, and in particular for preventing persons from taking into captivity, harbouring, concealing or otherwise protecting wild members of any such species with intent to prevent their destruction, or in any other way obstructing or interfering with any thing which has been, is being or is to be done or used in connection with that destruction;
- (c) regulate the ownership and disposal of the carcasses of members of any such species destroyed in the area to which the order relates.

(4) Before commencing the destruction of wild members of a species on any land within an area to which an order under this Article applies the Department shall take all reasonable steps to inform the occupier of the land and any other person who may be there of the Department's intention to carry out that destruction and of the methods of destruction to be used; and the Department shall

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ensure that destruction is carried out on any such land in as safe a manner as is possible in all the circumstances.

(5) Where an order under this Article is in force, the Department may take such measures (including the erection of fences or other obstacles) as the Department considers appropriate—

- (a) for preventing the movement of living creatures into or out of the area or any part of the area to which the order applies while destruction of wild members of any species to which the order relates is being carried out in the area; and
- (b) where destruction of wild members of any such species has been or is to be carried out in any part of that area, for preventing the recolonisation of that part by members of that species for as long as the Department considers necessary to prevent reappearance among them of the disease to which the order applies.

(6) As soon as may be after the Department is satisfied, in the case of any land, that any measures affecting that land which have been taken in connection with an order under this Article are no longer necessary, the Department shall remove from the land anything placed or erected on it and shall take such other steps as are reasonably practicable to reinstate the land.

(7) In this Article—

“livestock”, subject to paragraph (8), means cattle, sheep, goats and other ruminants, swine, horses, domestic fowl, turkeys, geese, ducks, guinea fowl, pigeons, pheasants and partridges;

“species” means any species of animals or poultry;

and references to wild members of any species in an area are references to members of the species in the area that are neither domesticated nor held in captivity.

(8) The Department may by order modify the definition of “livestock” in paragraph (7).

Orders relating to infected places and areas

14. ^{F14} . . . the Department may by order—

- (a) prescribe and regulate the publication by placards, handbills or otherwise, in the immediate neighbourhood of a place or area declared infected, of the fact of such declaration;
- (b) prohibit or regulate the movement of animals or poultry and persons into, within or out of, an infected place or area;
- (c) prescribe and regulate the isolation or separation of animals or poultry being in an infected place or area;
- (d) prohibit or regulate the removal or carcasses or other things, whether animate or inanimate, into, within, or out of an infected place or area;
- (e) prescribe and regulate the destruction, burial, disposal or treatment of carcasses or other things, whether animate or inanimate, being in, or removed out of, an infected place or area;
- (f) prescribe and regulate the cleansing and disinfection—
 - (i) of infected places and areas;
 - (ii) of receptacles or vehicles used for the confinement or conveyance of animals or poultry;
- (g) prescribe and regulate the disinfection of the clothes of persons being in an infected place or area, and the use of precautions against the spreading of disease by such persons;
- (h) provide for exemptions from any such prohibitions by means of the grant of licences^{F15} subject to such conditions as may be specified in the licences].

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F14 1994 NI 6

F15 1984 NI 2

Power to exclude strangers

15. A person owning or having charge of any animals or poultry, in a place or area declared infected with any disease may affix, at or near the entrance to a building or enclosure in which the animals or poultry are, a notice forbidding persons to enter that building or enclosure without the permission mentioned in the notice, and thereupon it shall not be lawful for any person, not having by law a right of entry or way into, on, or over that building or enclosure, to enter or go into, on, or over the same without that permission.

Slaughter of diseased and suspected animals and poultry

Slaughter of diseased and suspected animals and poultry

16.—(1) The functions of the Department in relation to the slaughter of animals and poultry affected or in contact with, or suspected of, any disease specified in Schedule 2 are set forth in that Schedule.

[^{F16}(1A) The Department shall by order make provision for compensation in respect of the slaughter of animals or poultry under Schedule 2.

(1B) Without prejudice to the generality of paragraph (1A), an order under that paragraph may do either or both of the following—

- (a) require the Department to pay compensation not exceeding such amount as may be specified in the order;
- (b) provide for the calculation of compensation using such scales or such other basis of calculation as may be so specified.]

(2) Without prejudice to Article 2(3), the Department may, in relation to any disease, by order, modify the provisions of Schedule 2 if it appears to the Department that the modifications are necessary or expedient for the purposes of this Order.

F16 1994 NI 6

VALID FROM 12/03/2010

[^{F17}Slaughter of animals and poultry treated with serum or vaccine

16A.—(1) This Article applies to any animal or bird which has been treated with serum or vaccine (or both) for the purpose of controlling disease or preventing the spread of any disease specified for the purposes of this Article by order of the Department.

(2) The Department may cause to be slaughtered any animal or bird to which this Article applies.

(3) The Department shall, by order, make provision for compensation in respect of the slaughter of any animal or bird under this Article.]

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F17 Art. 16A inserted (12.3.2010) by Diseases of Animals Act (Northern Ireland) 2010 (c. 1), ss. 2, 22(1); S.R. 2010/70, art. 2

Additional officers and expenses for purposes of slaughter

17. For the purposes of the execution of the provisions of this Order relating to the slaughter by the Department of animals or poultry on account of disease, the Department may—

- (a) with the consent of the Department of the Civil Service, employ at such remuneration such additional inspectors, valuers and other persons, and
- (b) with the consent of the Department of Finance, incur such expenses, as the Department thinks necessary.

General provisions relative to slaughter and compensation

18.—(1) The Department may, notwithstanding anything in this Order, reserve for observation and treatment an animal or bird liable to be slaughtered under this Order at the direction of the Department but subject to payment of compensation by the Department as in case of actual slaughter.

(2) Where an animal or bird has been slaughtered under this Order at the direction of the Department the carcass shall belong to the Department and shall be buried or sold or otherwise disposed of by or at the direction of the Department, as the condition of the animal, bird or carcass and other circumstances may require or admit.

(3) If, in any case, the sum received by the Department on sale of a carcass under this Article exceeds the amount paid for compensation to the owner of the animal or bird slaughtered, the Department shall pay that excess to the owner, after deducting reasonable expenses.

(4) Where an animal or bird has been slaughtered under this Order at the direction of the Department, the Department may use for the burial of the carcass any ground in the possession or occupation of the owner of the animal or bird and suitable in that behalf, or any common or unenclosed land.

(5) If the owner of an animal or bird slaughtered under this Order at the direction of the Department has an insurance on the animal or bird, the amount of the compensation awarded to him under this Order may be deducted by the insurers from the amount of the money payable under the insurance before they make any payment in respect of the animal or bird.

(6) Notwithstanding anything in this Order, the Department may withhold, either wholly or partially, compensation or other payment in respect of an animal or bird slaughtered under this Order at its direction where, in the judgment of the Department

- (a) the owner or the person having charge of the animal or bird has been guilty of an offence against this Order tending to prejudice the due control of the disease necessitating the slaughter; or
 - (b) the animal or bird, being an imported animal or bird, was diseased at the time of its landing or, before or while being brought from any member State, exposed to the infection of disease; or
 - (c) the bird was hatched from an imported egg which carried disease or infection at the time of landing or came from the same source as eggs found to carry disease or infection.
- (7) The Department may by order—
- (a) prescribe the mode of ascertainment of the value of an animal or bird slaughtered, or liable to be slaughtered, at the direction of the Department;
 - (b) regulate applications for, and the mode of payment of, compensation;

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- (c) prescribe and regulate the destruction, burial, disposal or treatment of carcasses of animals or poultry slaughtered at the direction of the Department.

Modifications etc. (not altering text)

- C3 Art. 18(6)(7) applied (23.2.2006) by Foot-and-Mouth Disease (Control of Vaccination) Regulations (Northern Ireland) 2006 (S.R. 2006/43), **reg. 40(a)**
- C4 Art. 18(6) applied (23.2.2006) by Foot-and-Mouth Disease Regulations (Northern Ireland) 2006 (S.R. 2006/42), **reg. 60(a)**
- C5 Art. 18(6) applied (10.2.2007) by Avian Influenza and Influenza of Avian Origin in Mammals Regulations (Northern Ireland) 2007 (S.R. 2007/68), **reg. 84(b)** (with reg. 3)
- C6 Art. 18(6) applied (10.2.2007) by Avian Influenza (Vaccination) Regulations (Northern Ireland) 2007 (S.R. 2007/69), **reg. 22(1)(a)**
- C7 Art. 18(6) applied (10.2.2007) by Avian Influenza (Preventive Measures) Regulations (Northern Ireland) 2007 (S.R. 2007/70), **reg. 18(a)**
- C8 Art. 18(6)(7) applied (30.6.2009) by Swine Vesicular Disease Regulations (Northern Ireland) 2009 (S.R. 2009/223), **reg. 45(a)**
- C9 Art. 18(6)(7) applied (23.2.2006) by Foot-and-Mouth Disease (Control of Vaccination) Regulations (Northern Ireland) 2006 (S.R. 2006/43), **reg. 40(a)**

Regulation of movement of animals and poultry, etc.

Regulation of movement of animals and poultry, etc.

19. ^{F18} . . . the Department may by order—
- (a) prohibit or regulate the exposure of diseased or suspected animals or poultry in markets, fairs or sale-yards, or other public or private places where animals or poultry are commonly exposed for sale, and the placing of such animals or poultry in lairs or other places adjacent to or connected with markets or fairs, or where animals or poultry are commonly placed before exposure for sale;
- (b) prohibit or regulate the sending or carrying of diseased or suspected animals or poultry, or of other things, whether animate or inanimate, likely to spread disease, or the causing of such animals or poultry or such other things to be sent or carried, on railways, canals, rivers, or inland navigations, or in coasting vessels, or in an aircraft which is engaged in a journey or a part of a journey beginning and ending in Northern Ireland, or otherwise;
- (c) prohibit or regulate the carrying, leading, or driving of diseased or suspected animals or poultry, or the causing of such animals or poultry to be carried, led or driven on highways or thoroughfares or elsewhere;
- (d) prohibit or regulate the placing or keeping of diseased or suspected animals or poultry on commons or unenclosed lands or in fields or other places insufficiently fenced, or on the sides of highways;
- (e) prohibit or regulate the movement of animals or poultry, and the removal of carcasses, or other things, whether animate or inanimate, and prescribe and regulate the isolation of animals or poultry newly purchased;
- (f) prescribe and regulate the issue and production of licences respecting movement and removal of animals, poultry and things;
- (g) prohibit or regulate the holding of markets, fairs, exhibitions and sales of animals or poultry;

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- (h) prescribe and regulate the cleansing and disinfection of places used for the holding of markets, fairs, exhibitions or sales of animals or poultry, or for lairage of animals, and yards, sheds, stables and other places used for animals or poultry;
- (i) prescribe and regulate the cleansing and disinfection of vessels, aircraft, vehicles, and pens and other places, used for the carrying of animals or poultry or purposes connected with the carrying of animals or poultry;
- (j) prohibit, absolutely or conditionally, the use for the carrying of animals or poultry or for any purpose connected with the carrying of animals or poultry, of a vessel, aircraft, vehicle, or pen or other place in respect of which, or of the use of which, a penalty has been imposed on any person for an offence against this Order; and
- (k) provide for the exemptions from any such prohibitions by means of the grant of licences^[F19] subject to such conditions as maybe specified in the licences].

F18 1994 NI 6

F19 1984 NI 2

VALID FROM 12/03/2010

^[F20] **Registration and approval of livestock dealers**

19A.—(1) The Department may by order—

- (a) regulate the possession, purchase, sale or supply of animals or poultry by livestock dealers for the purpose of preventing the outbreak or spread of disease or for the purpose of preventing injury or suffering to animals or poultry;
 - (b) provide for the approval and registration of livestock dealers and premises owned or occupied by livestock dealers.
- (2) In paragraph (1), “livestock dealer” means any person who—
- (a) buys and sells animals or poultry commercially, either on his own behalf or on behalf of another;
 - (b) does not generally retain such animals or poultry in his ownership for a period of more than 30 days; and
 - (c) in the course of his business moves animals or poultry purchased by him from premises owned or occupied by him to premises not owned or occupied by him.]

F20 Art. 19A inserted (12.3.2010) by Diseases of Animals Act (Northern Ireland) 2010 (c. 1), ss. 15, 22(1); S.R. 2010/70, art. 2

Disease found in animals in transit

20.—(1) The Department shall by order make such provision as it thinks necessary or expedient in relation to animals or poultry found to be affected with disease—

- (a) while exposed for sale or exhibited in a market, fair, sale-yard, place of exhibition, or other place; or
- (b) while placed in a lair or other place before exposure for sale; or
- (c) while in transit or in course of being moved by land or water, or by air; or

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- (d) while being in a slaughter-house or place where animals or poultry are slaughtered or are kept with a view to slaughter; or
- (e) while being on common or unenclosed land; or
- (f) generally, while being in a place not in the possession of occupation or under the control of the owner of the animals or poultry.

(2) The Department shall by order under this Article make such provision as it thinks fit for the consequences under this Order of animals or poultry being found in any of the circumstances mentioned in paragraph (1), and any such order may, in addition to making provision with respect to the place where animals or poultry are so found make provision with respect to—

- (a) the animals or poultry so found;
- (b) other places;
- (c) other animals or poultry being or having been in contact with animals or poultry so found.

(3) Every order under this Article shall have full effect notwithstanding any provision of this Order requiring the declaration of a place infected with disease or relating to any consequence or, or to any matter connected with, such a declaration, and notwithstanding any other provision whatsoever of this Order.

Protection of animals and poultry from suffering, etc.

21. The Department may by order make provision—

- (a) for protecting animals and poultry from unnecessary suffering—
 - (i) during inland transit, or in an aircraft engaged in a journey or part of a journey or part of a journey beginning and ending in Northern Ireland;
 - (ii) during passage by sea or air and on landing;
 - (iii) in connection with their exposure for sale and their disposal after sale;
- (b) for securing a proper supply of water and food to animals and poultry during any period of their detention.

Provision of water and food at railway stations

22.—(1) Every person carrying on a railway undertaking (in this Article referred to as “the authority”) shall provide, to the satisfaction of the Department, water and food or either of them at such railway stations as the Department directs, for animals or poultry carried or about to be or having been carried on the railway of the authority.

(2) The water and food so provided, or either of them, shall be supplied by the authority to any such animals or poultry on the request of the consignor or of any person in charge of them.

(3) Subject to paragraph (4), as regards water, if as respects any animal or bird such a request is not made, so that the animal or bird remains without a supply of water for twenty-four consecutive hours, the consignor and the person in charge of the animal or bird shall each be guilty of an offence against this Order; and it shall lie on the person charged to prove such a request and the time within which the animal or bird had a supply of water.

(4) The Department may by order substitute for the period of twenty-four hours mentioned in paragraph (3) such other period being not less than twelve hours as may be specified in the order.

(5) The authority supplying water or food under this Article may make such reasonable charges, if any, as the Department by order approves, in addition to such charges as they are for the time being authorised to make in respect of the carriage of animals or poultry; and the amount of those additional charges shall be a debt recoverable summarily by the authority from the consignor and from the consignee.

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(6) The authority shall have a lien for the amount of the additional charges mentioned in paragraph (5) on the animal or bird in respect of which those charges accrued due, and on any other animal or bird at any time consigned by or to the same consignor or consignee to be carried by the authority.

Carriage of animals and poultry by sea or air

23. The Department may by order—

- (a) prohibit the conveyance of animals or poultry by any specified vessel or aircraft to or from any port or aerodrome in Northern Ireland for such time as the Department may consider expedient;
- (b) make provision for ensuring for animals and poultry carried by sea or air a proper supply of food and water and proper ventilation during the passage and on landing;
- (c) provide for exemptions from any such prohibition by means of the grant of licences^[F21] subject to such conditions as maybe specified in the licences].

F21 1984 NI 2

[^{F22}Animal welfare in exportation

23A.—(1) The Department, in the interests of animal welfare, may by order—

- (a) regulate the exportation from Northern Ireland of animals or poultry, and, in particular, prohibit exportation without such licence or certificate as may be prescribed by the order;
- (b) make provision as to the circumstances in which, and the conditions on which, a certificate or licence may be obtained.

(2) Without prejudice to the generality of paragraph (1), an order under that paragraph may include provision for requiring persons proposing to export animals or poultry from Northern Ireland to furnish information about—

- (a) the intended ultimate destination of the animals or poultry;
- (b) the arrangements for conveying them to that destination; and
- (c) any other matters which may be specified in the order.]

F22 1984 NI 2

Importation, etc.

Orders prohibiting import of animals, etc.

24.—(1) For the purpose of preventing the introduction of disease into Northern Ireland, the Department may, whenever it deems it expedient so to do, by order—

- (a) prohibit or regulate the importation of—
 - (i) animals, poultry, carcasses and eggs and
 - (ii) other things, whether animate or inanimate, by or by means of which it appears to the Department that any disease might be carried or transmitted,
- (b) provide for exemptions from any such prohibition by means of the grant of licences^[F23] subject to such conditions as maybe specified in the licences].

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[^{F23}(1A) An order under paragraph (1) may apply, with or without modifications, any of the provisions of Schedule 3 (slaughter and quarantine) to imported animals and poultry.]

(2) An order under paragraph (1) which is expressed to be made for the purpose of preventing the introduction of rabies into Northern Ireland may include provision for the destruction in Northern Ireland, by such persons as may be prescribed by the order, of animals in respect of which the order or any licence granted under it is contravened.

(3) Whenever the Department is not satisfied, having regard to—

- (a) the sanitary conditions of animals or any specified kind of animals in, or imported from, any country or any specified part of any country; and
- (b) the laws made by that country for the regulation of the importation and exportation of animals, and for the prevention of the introduction or spreading of disease; and
- (c) the administration of such laws,

that the circumstances are such as to afford reasonable security against the importation from that country of animals affected with disease, the Department shall prohibit the importation of animals from that country.

(4) This Article shall apply to the importation in an aircraft of animals and other things not landed from the aircraft as it applies in relation to their landing from an aircraft.

(5) If an animal or other thing is imported in an aircraft in contravention of an order made under this Article, then (without prejudice to the liability of any other person under Article 52 (1) and (4) the person for the time being having possession and control of the aircraft, as owner, hirer or otherwise, shall be guilty of an offence against this Order.

F23 1984 NI 2

Arts. 25#28 rep. by 1984 NI 2

Regulation of ports, aerodromes, landing places and imported animals, poultry, etc.

29.—(1) ^{F24} . . . the Department may make such orders as it thinks fit, generally for the ^{F24} better] execution of this Order in relation to, or for the purpose of, in any manner preventing the introduction or spreading of disease by—

- (a) imported animals and carcasses; and
- (b) other imported things, whether animate or inanimate, by or by means of which it appears to the Department that any disease might be carried or transmitted; and
- (c) persons, animals, poultry and other things, whether animate or inanimate, which have been or may have been in contact with such imported animals, carcasses or other things.

(2) Without prejudice to the generality of paragraph (1), an order made under that paragraph may—

- (a) prescribe—
 - (i) the ports, aerodromes and landing places at which alone imported animals may be landed;
 - (ii) the aerodromes which alone may be used by aircraft carrying imported animals;
- (b) define the limits of landing places for the purposes of this Order;
- (c) permit the detention on board any vessel, hovercraft, aircraft or vehicle of any other description of any consignment the landing of which would contravene an order of the Department;

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- (d) permit the export of any such consignment or the export, treatment or destruction of any other consignment which has been landed in contravention of an order of the Department;
- (e) prohibit or regulate the movement of animals into, within, or out of a landing place and provide for exemptions from any such prohibition by means of the grant of licences^{F25} subject to such conditions as maybe specified in the licences];
- (f) prescribe and regulate the inspection and examination and the mode, time and conditions of slaughter, of animals in a landing place;
- (g) prescribe and regulate the disposal of animals not being imported animals, and being in a landing place;
- (h) regulate the removal of carcasses or other things, whether animate or inanimate, into, within, or out of a landing place, and the disposal or these things, when likely to introduce or spread disease;
- (i) prescribe and regulate the cleansing and disinfection of a landing place;
- (j) prescribe and regulate the disinfection or destruction of things being in, or removed out of, a landing place;
- (k) regulate the movement of persons into, within, or out of a landing place;
- (l) prescribe and regulate the disinfection of the clothes of persons employed or being in a landing place, and the use of precautions against the introduction or spreading by them of disease;
- (m) prescribe and regulate the seizure and detention of any imported animal, carcase or other things, whether animate or inanimate, by which disease may be introduced or spread;
- (n) require imported animals, whether as a condition of landing or otherwise, to be marked by tagging or in any other manner;
- (o) provide for the application to imported animals of any test for disease or of any treatment for disease.

F24 1994 NI 6

F25 1984 NI 2

Orders prohibiting import of poultry and eggs

30.—(1) For the purpose of [F26 in any manner] preventing contagious disease in poultry, the Department may, by order—

- (a) prohibit or regulate the importation of poultry or eggs;
- (b) authorise the destruction of imported eggs;
- (c) provide for exemptions from any such prohibitions by means of the grant of licences^{F27} subject to such conditions as maybe specified in the licences];
- (d) apply and modify such of the provisions of Article 29 as appear to the Department to be necessary or expedient for the purposes of this Article.

(2) Without prejudice to paragraph (1), an order made under this Article authorising the destruction of imported eggs may provide that compensation shall not be payable where the eggs carried disease or infection at the time of landing or came from the same source as eggs found to carry disease or infection.

(3) An order under paragraph (1) may—

- (a) apply, to poultry any of the provisions of Schedule 3 or otherwise that does not so apply;

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- (b) apply, with or without modifications, to imported eggs and their destruction any of the provisions of Part II of Schedule 3 relating to animals and their slaughter that does not so apply;
- (c) modify any of the provisions of Schedule 3 which does not apply as mentioned in subparagraph (a) and (b).

F26 1994 NI 6

F27 1984 NI 2

Compensation not payable for animals temporarily in Northern Ireland for quarantine purposes

31. Notwithstanding any other provision of this Order, no compensation shall be payable under this Order in respect of any imported animal which enters Northern Ireland for quarantine purposes in the course of transit to any place out of Northern Ireland.

Export of animals and poultry

32. The Department, in the interests of animal health or of human health, may by order—
- (a) regulate the exportation from Northern Ireland to a member State of animals or poultry or carcasses of animals or poultry, and, in particular, prohibit exportation without such certificate or licence as may be prescribed by the order; and
 - (b) make provisions as to the circumstances in which, and the conditions on which, a certificate or licence may be obtained.

VALID FROM 12/03/2010

[^{F28}PART 2A

TRANSMISSIBLE SPONGIFORM ENCEPHALOPATHIES

F28 Pt. 2A (arts. 32A-32J) inserted (12.3.2010) by Diseases of Animals Act (Northern Ireland) 2010 (c. 1), ss. 3, 22(1), Sch. 1; S.R. 2010/70, art. 2

Livestock genotypes

Power of Department to specify susceptible livestock genotypes

32A Where, in the opinion of the Department, a livestock genotype is more susceptible than other livestock genotypes—

- (a) to infection by a form of TSE, or
- (b) to becoming a carrier of a form of TSE,

the Department may by order specify, for the purposes of this Part, the livestock genotype and, if it considers it appropriate, the form of TSE concerned.

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Identification of genetically susceptible livestock

32B.—(1) The Department may by order make provision requiring the keeper of any livestock—

- (a) to allow an inspector to take a sample from it, for the purpose of establishing its genotype;
 - (b) to allow an inspector to administer or otherwise attach to it an identification device;
 - (c) where the genotype of the livestock has been established (whether or not as a result of the exercise of powers conferred by this Part) to keep a record of its genotype.
- (2) An order under paragraph (1) may, in particular—
- (a) provide that only identification devices of a kind specified in the order may be administered or attached;
 - (b) make provision as to the assistance which an inspector may require the keeper to give;
 - (c) make provision with respect to the testing of samples;
 - (d) require the issuing and keeping of certificates recording the genotypes of livestock.

Restriction notice

Restrictions on breeding

32C.—(1) This Article applies where it appears to the Department that livestock is of a genotype specified in an order under Article 32A.

(2) The Department shall consider whether there are exceptional circumstances that justify allowing the livestock to be used for breeding.

(3) If it appears to the Department that allowing the livestock, or its semen, eggs or embryos, to be used for, or in connection with, breeding would not be justified, it shall give a notice (in this Part referred to as a “restriction notice”) to the keeper of the livestock.

(4) A restriction notice—

- (a) may be made so as to apply to more than one creature, and
- (b) may describe the livestock to which it applies in such a way as the Department considers appropriate, and
- (c) shall specify the restrictions and requirements provided for in paragraphs (7) to (10).

(5) If the keeper of the livestock is not the same person as its owner, the Department may give a separate restriction notice to the owner.

(6) If the keeper of the livestock is not the same person as the person in possession of the semen, eggs or embryos of the livestock, the Department may give a separate restriction notice to the person in possession of the semen, eggs or embryos.

(7) A person to whom a restriction notice is given shall not—

- (a) use livestock to which the notice applies, or its semen, eggs or embryos, for purposes of or in connection with breeding, or
- (b) cause or permit such livestock or such semen, eggs or embryos to be used by another person for those purposes.

(8) A person to whom a restriction notice is given shall arrange for any semen, egg or embryo which has at any time been taken from livestock to which the notice applies, and which is in the person's possession or under the person's control, to be destroyed within such period, of not less than 28 days, as may be specified in the notice.

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(9) A person to whom a restriction notice is given shall arrange for each creature to which the notice applies—

- (a) to be castrated or (as appropriate) sterilised within such period, of not less than 28 days, as may be specified in the notice, or
- (b) to be slaughtered before the end of the period of 7 months beginning with that date.

(10) A person to whom a restriction notice is given shall comply with any restrictions on the movement of any livestock to which the notice applies as may be specified in the notice.

(11) For the purposes of paragraph (2) exceptional circumstances include circumstances in which the imposition in relation to the livestock of the restrictions and requirements of paragraphs (7) to (10) is likely to cause the extinction of the breed or type of which the livestock is a member.

Appeal

32D.—(1) A person to whom a restriction notice has been given may appeal against the notice to a person appointed by the Department for the purpose of dealing with appeals under this Part (“an assessor”).

(2) Subject to paragraph (3), an appeal may not be brought after the end of the period of 21 days beginning with the date on which the notice concerned was given to the appellant.

(3) The Department may, in a particular case, extend the period of 21 days if it considers that there are exceptional circumstances justifying the extension.

(4) If the restriction notice applies to more than one creature, the appeal may be limited to the creature or creatures specified by the appellant.

(5) If the assessor allows the appeal, in whole or in part, the assessor may—

- (a) revoke the notice,
- (b) revoke the notice so far as it applies to one or more creatures specified by the assessor, or
- (c) direct that a further test is carried out in relation to such livestock as may be specified by the assessor.

(6) A direction under paragraph (5)(c) may require—

- (a) a further sample to be taken,
- (b) the further test to be carried out by a different testing laboratory.

(7) The Department may by order supplement the provisions of this Article.

(8) An order under paragraph (7) may, in particular, make provision—

- (a) as to the procedure to be followed on an appeal,
- (b) extending the period mentioned in Article 32C(9)(a) or (b) where an appeal is brought against a restriction notice,
- (c) requiring the appellant to meet the reasonable costs of, and in connection with, the taking of a further sample or the carrying out of a further test as a result of a direction under paragraph (5)(c), and
- (d) as to the recovery of any such costs.

(9) The revocation of a restriction notice (in whole or in part) by an assessor does not prevent the issue of another restriction notice, following the testing of a further sample.

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Regulation of movement of livestock

Regulation of movement of susceptible livestock

- 32E.**—(1) This Article applies to livestock—
- (a) whose genotype is specified by virtue of Article 32A; and
 - (b) in relation to whose genotype the form of TSE concerned is so specified.
- (2) The Department may by order—
- (a) prohibit or regulate the movement of any livestock to which this Article applies or the carcasses of any such livestock;
 - (b) regulate the isolation of any livestock to which this Article applies;
 - (c) regulate the issue and production of licences in respect of the movement of livestock to which this Article applies.

Enforcement

Department's powers of enforcement

32F.—(1) This Article applies if the Department is satisfied that a person to whom a restriction notice has been given has failed to comply with one or more of the restrictions or requirements imposed on that person by Article 32C.

- (2) But it does not apply in relation to any livestock—
- (a) which is the subject of an appeal under Article 32D which has not been disposed of, or
 - (b) which, as the result of a successful appeal, is no longer subject to the restriction notice.
- (3) The Department may take such reasonable steps as it considers appropriate to secure that the failure is remedied.
- (4) In particular, the Department may—
- (a) cause to be destroyed any semen, egg or embryo which has not been destroyed as required by Article 32C(8);
 - (b) cause to be castrated (or, as appropriate, sterilised) or slaughtered any livestock—
 - (i) which is the subject of the notice, but
 - (ii) which has neither been castrated (or, as appropriate, sterilised) within the period mentioned in Article 32C(9)(a) nor slaughtered within the period mentioned in Article 32C(9)(b).
- (5) The Department may by order make provision supplementing the provisions of this Article.

Offence

- 32G.**—(1) A person to whom a restriction notice is given commits an offence (whether or not the notice is the subject of an appeal) if that person—
- (a) sells (or otherwise transfers to another person) livestock to which the notice applies, or any of its semen, eggs or embryos;
 - (b) fails, without reasonable excuse (proof of which lies on that person), to comply with any of the restrictions or requirements specified in the notice.

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(2) Any other person commits an offence if he uses any semen, egg or embryo which he knows, or has reasonable cause to believe, has been taken from livestock which is the subject of a restriction notice.

Powers of slaughter

Powers of slaughter: TSE

32H.—(1) With a view to—

- (a) preventing the spread of;
- (b) controlling; or
- (c) eliminating,

any form of TSE, the Department may, if it thinks fit, cause any livestock to which this paragraph applies to be slaughtered.

(2) Paragraph (1) applies to livestock—

- (a) whose genotype is specified by virtue of Article 32A; and
- (b) in relation to whose genotype the form of TSE concerned is so specified.

(3) Paragraph (1) also applies to livestock whose genotype is not ascertained because—

- (a) it is not reasonable in the circumstances, by reason of urgency or otherwise, to seek to ascertain the genotype; or
- (b) the genotype cannot, in the absence for the time being of scientific knowledge, established method or otherwise, reasonably be ascertained.

Compensation

32I.—(1) The Department shall by order make provision for compensation in respect of—

- (a) any livestock slaughtered, or other thing destroyed, in accordance with a restriction notice;
- (b) any livestock slaughtered, or other thing destroyed, by virtue of Article 32F;
- (c) any livestock slaughtered in accordance with Article 32H.

(2) Without prejudice to the generality of paragraph (1), an order under that paragraph may do either or both of the following—

- (a) require the Department to pay compensation not exceeding such amount as may be specified in the order
- (b) provide for the calculation of compensation using such scales or such other basis of calculation as may be so specified.

Interpretation

32J In this Part—

“breeding” includes the placing in any creature of an embryo which has been created otherwise than by fertilisation;

“keeper”, in relation to livestock, includes an owner of the livestock;

“livestock” means—

- (a) any creature which is kept, fattened or bred for the production of food, wool, skin or fur;

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- (b) any creature, other than a dog, which is kept for use in the farming of land; and
 - (c) any equine animal;
- “TSE” means transmissible spongiform encephalopathy.]

PART III

RESTRICTIONS ON THE ADMINISTRATION OF CERTAIN SUBSTANCES TO ANIMALS OR POULTRY

Prohibition of unauthorised possession or administration of scheduled substances

33.—(1) Subject to any exemptions for which provision may be made by an order of the Department and to the provisions of paragraph (2) of this Article and paragraph (6) of Schedule 4, it shall not be lawful for a person—

- (a) to have in his possession for administration to animals (whether by himself or by any other person), or
- (b) to administer to any animal,

a substance specified in Schedule 4, unless it—

- (i) is in his possession by virtue of prescription or supply by a registered veterinary surgeon or a registered veterinary practitioner for its administration by way of treatment to an animal under his care, or
- (ii) being so in his possession, is administered to the animal by him by way of such treatment.

(2) Paragraph (1) shall not be taken to prohibit the possession of a substance specified in Schedule 4 by a person of any of the following descriptions (in so far as is necessary for the practice or exercise of his profession, trade, function or employment as such) that is to say,—

- (a) a registered veterinary surgeon or a person employed by him;
- (b) a registered veterinary practitioner or a person employed by him;
- (c) a person carrying on the business of a manufacturer of, or wholesale dealer in, substances specified in Schedule 4 (excluding a manufacturer of or dealer in animal feeding stuffs);
- (d) a registered pharmaceutical chemist;
- (e) a person lawfully conducting a retail pharmacy business;
- (f) a person in charge of a laboratory the recognised activities of which consist in, or include, the conduct of scientific education or research;
- (g) a person acting in accordance with the directions of a person of a description specified in any of sub-paragraphs (c) to (f)
 - (i) on premises occupied for the purposes of the profession, trade, function or employment of the person so specified; or
 - (ii) for the purpose of delivering the substance after sale to a person who, under this Part, may lawfully have a substance of that kind in his possession.
- (h) Pharmacy Inspector appointed under Article 24 (1) of the Pharmacy (Northern Ireland) Order 1976^{F29} or a Poisons Inspector appointed under Article 16 (1) of the Poisons (Northern Ireland) Order 1976^{F30} or a person acting in accordance with the directions of a Pharmacy or Poisons Inspector;
- (i) an inspector or an authorised officer of the Department;

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nor shall it be taken to prohibit the administration of such a substance to an animal under his care by—

- (i) a person acting in a capacity specified in sub-paragraphs (a) or (b) for therapeutic purposes: or
 - (ii) a person acting in a capacity specified in sub-paragraph (f) or a person acting in accordance with his directions.
- (3) The Department may, by order, modify the provisions of Schedule 4.

F29 1976 NI 22

F30 1976 NI 23

Records and returns

34. The Department may make orders for the purposes of—

- (a) ensuring the keeping of such records of the administration to animals (other than animals kept in a laboratory such as is referred to in Article 33 (2) (f)) of substances specified in Schedule 4 as may be required by the orders; and
- (b) providing for the inspection, verification and copying of such records by officers of the Department;

and orders made under this Article may require registered veterinary surgeons or registered veterinary practitioners or other persons specified in the orders to make such returns to the Department giving such details of any substances so specified which have been administered, directed to be administered or prescribed by them to or in respect of any animals (including details sufficient to identify the animals concerned) as may be so required.

Offences under Part III

35.—(1) If any person has in his possession or administers to any animal a substance, in contravention of Article 33, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding^{F31} level 4 on the standard scale] or to imprisonment for a term not exceeding three months or to both.

(2) The court by which a person is convicted of a offence under paragraph (1) with respect to a substance shall order any quantity of it which has been found in his possession to be forfeited and to be—

- (a) destroyed, or
- (b) disposed of by sale to any person who, under this Part, may lawfully have a substance of that kind in his possession, or
- (c) delivered up to the Department,

as the court thinks fit.

F31 1984 NI 3

Powers of entry, examination and seizure

36.—(1) For the purpose of ascertaining whether there has been any contravention of the provisions of this Part or of any order of the Department made under this Part, an inspector may, at any reasonable time and on production, if demanded, of his authority to act as such,—

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- (a) enter any land, building (not being a building used only as a private dwelling-house), shed, pen, place, vehicle, aircraft, vessel or boat on which he has reasonable grounds for supposing that any animal or carcase or any animal feeding stuff or any substance specified in Schedule 4 is to be found; and
 - (b) examine any animal or carcase or any such feeding stuff or substance so found, and for that purpose open any container; and
 - (c) in relation to any such animal, carcase, feeding stuff or substance apply such tests, take such samples and apply such marks as may be reasonably necessary or as the Department may, by order, require.
- (2) An inspector may seize and detain any substance which he has reasonable grounds for supposing is liable to be forfeited under this Part and any document referring to such a substance which he has reasonable grounds for supposing may be required as evidence in proceedings under this Part.
- (3) Where an inspector seizes any substance or document in the exercise of his powers under this Article he shall inform the owner of the substance or document (if known to him).
- (4) Where any substance or document is seized under this Article, the Department
- (a) at the request of any person who claims to be the owner and who, within the period of four months from the date of the seizure produces to the Department such evidence of his title as the Department may reasonably require, shall return the substance or document to that person, unless (whether before or after the expiration of that period)—
 - (i) some person is charged with an offence under this Part in relation to the substance; or
 - (ii) proceedings in which the document may be required as evidence are commenced under this Part; or
 - (b) where a person is charged with an offence in relation to the substance or in proceedings such as are mentioned in sub-paragraph (a) (ii) and is acquitted, shall return the substance or document to any person who appears to the Department to be the owner and also, in the case of a substance, to be a person who, under this Part, may lawfully have a substance of that kind in his possession; or
 - (c) in any other case, may dispose of the substance or document as the Department thinks fit.

Temporary prohibitions on disposal of certain animals

37. Where an inspector has reasonable grounds for supposing that a substance specified in Schedule 4 has been administered to any animal, the inspector may, by notice require the owner of that animal to retain it in his possession for such period not exceeding six months as may be specified in the notice and, where such a notice is given in respect of any animal, the owner of the animal or, in the event of his death, any successor in title of his who is aware of the restriction imposed by the notice shall retain the animal in his possession until the expiration of the period so specified or until the expiration of such other period as may be specified in a further notice under this Article so, however, that an owner who has received such a notice may after consultation with the Department dispose of the animal in any market acceptable to the Department.

Interpretation of Part III

38. In this Part—

“animals” includes poultry;

“person lawfully conducting a retail pharmacy business” shall be construed in accordance with section 69 of the Medicines Act 1968

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^{F32}“registered pharmaceutical chemist” means a person registered in the register of pharmaceutical chemists in pursuance of Articles 6 and 9 of the Pharmacy (Northern Ireland) Order 1976;

“registered veterinary practitioner” means a person registered in the supplementary veterinary register in pursuance of the Veterinary Surgeons Act 1966

^{F33}“registered veterinary surgeon” means a person registered in the register of veterinary surgeons in pursuance of the Veterinary Surgeons Act 1966;

“retail pharmacy business” has the meaning assigned to it by section 132(1) of the Medicines Act 1968.

F32 1968 c. 67

F33 1966 c. 36

PART IV

MISCELLANEOUS AND GENERAL

Provisions as to district councils

Provision of wharves, etc.

39.—(1) The Department may by order empower a district council to provide, erect, and fit up wharves, stations, lairs, sheds, and other places for the landing, reception, keeping, sale, slaughter or disposal of imported or other animals, carcasses, fodder, litter, dung and other things.

(2) An order made under paragraph (1) may, without prejudice to the generality of that paragraph, make provisions for—

- (a) the making by the district council of bye-laws for the regulation and control of any wharf or other place provided under the order and prescribing charges or tolls approved by the Department after consultation with the Department of Finance for the use of any such wharf or place;
- (b) in default of such bye-laws, the prescribing of such charges or tolls by an order of the Department made after consultation with the Department of Finance;
- (c) the application, with or without such modification as may be specified in the order, of the Markets and Fairs Clauses Act 1847^{F34} to or in relation to any such wharf or place;
- (d) the application by the district council of any money so received by it;
- (e) the making by the district council of such periodical returns of its receipts and expenditure in respect of any such wharf or place as may be prescribed by the order.

(3) Where a district council—

- (a) is unable or unwilling to perform such functions as are referred to in paragraph (1); or
- (b) satisfies the Department that it is impracticable or inexpedient that such functions should in its area be performed by the district council;

the Department may by order empower some other authority or person to perform those functions, and paragraph (2) shall have effect accordingly.

(4) An order under paragraph (3) may make such modifications in Article 41 as appear to the Department to be necessary to give effect to the order.

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F34 1847 c. 14

Burial of carcases

Para. (1) rep. by SR 2003/495

(2) Where a carcase washed ashore is buried or destroyed under the direction of a receiver of wreck with authority from the Secretary of State, the expenses of that^{F35} . . . destruction shall be expenses of the district council and shall be paid by the district council to the receiver on demand, and in default of payment shall be a debt recoverable summarily by the receiver from the district council.

(3) Where a district council has incurred any expenses under paragraph (2) on account of the^{F35} . . . destruction of the carcase of any animal or bird which, or the carcase of which was thrown or washed from any vessel or fell from an aircraft, the owner of the vessel or aircraft shall be liable to repay such expenses to the district council.

F35 SR 2003/495

Reports for Department

41. Every district council and its inspectors and officers shall furnish to the Department such notices, reports, returns and information as the Department may require.

Police

Functions of constables

42.—(1) It shall be the duty of the Royal Ulster Constabulary to execute the provisions of this Order and of every order of the Department; and such provisions shall be enforceable by any constable.

(2) Where a person is seen or found committing, or is reasonably suspected of being engaged in committing, an offence against this Order, a constable may, without warrant, stop and detain him.

Para. (3) rep. by 1989 NI 12

(4) A constable may,^{F36} whether stopping or detaining a person as mentioned in paragraph (2) or arresting under [^{F37}Article 26] of the Police and Criminal Evidence (Northern Ireland) Order 1989 a person stopped or detained under that paragraph, or not],—

- (a) stop, detain, and examine any animal, poultry, vehicle, boat, or thing to which the offence or suspected offence relates; and
- (b) require the same to be forthwith taken back to or into any place or district from where it was unlawfully removed; and
- (c) execute and enforce that requisition.

(5) ^{F38}

(6) The foregoing provisions of this Article respecting a constable extend and apply to any person called by a constable to his assistance.

(7) A constable shall forthwith make a report in writing to his superior officer of every case in which he stops any person, animal, poultry, vehicle, boat, or thing under this Article, and of his consequent proceedings.

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(8) ^{F39} The offences to which this paragraph applies for the purposes of Article 19(1)(bb) of the Police and Criminal Evidence (Northern Ireland) Order 1989 are offences against this Order consisting of—

- (a) the landing or attempted landing of any animal in contravention of an order made under this Order and expressed to be made for the purpose of preventing the introduction of rabies into Northern Ireland; or
- (b) the failure by the person having the charge or control of any vessel, boat or hovercraft to discharge any obligation imposed on him in that capacity by such an order; or
- (c) the movement, in contravention of an order under Article 12 or 14, of any animal into, within or out of a place or area declared to be infected with rabies.

(9) ^{F40}

(10) For the purpose of exercising any power to seize an animal or cause an animal to be seized which is conferred on constables by an order made under this Order and expressed to be made for the purpose of preventing the introduction of rabies into Northern Ireland, a constable may enter (if need be, by force) and search any vessel, boat, hovercraft, aircraft or vehicle of any other description in which there is, or in which he, with reasonable cause, suspects that there is, an animal to which that power applies.

(11) Nothing in this Article shall take away or abridge any power or authority that a constable would have had if this Article had not been made.

F36 1989 NI 12

F37 Words in art. 42(4) substituted (1.3.2007) by Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)), arts. 1(2), 15(4), **Sch. 1 para. 19(a)**

F38 Art. 42(5) omitted (1.3.2007) by virtue of Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)), arts. 1(2), 15(4), **Sch. 1 para. 19(b)**

F39 Words in art. 42(8) substituted (1.3.2007) by Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)), arts. 1(2), 15(4), **Sch. 1 para. 19(c)**

F40 Art. 42(9) repealed (1.3.2007) by Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)), arts. 1(2), 15(4), 41(2), Sch. 1 para. 19(d), **Sch. 2**

Modifications etc. (not altering text)

C10 Art. 42 applied (23.2.2006) by Foot-and-Mouth Disease Regulations (Northern Ireland) 2006 (S.R. 2006/42), **reg. 60(b)**;

Art. 42 applied (23.2.2006) by Foot-and-Mouth Disease (Control of Vaccination) Regulations (Northern Ireland) 2006 (S.R. 2006/43), **reg. 40(b)**

C11 Art. 42 applied (10.2.2007) by Avian Influenza and Influenza of Avian Origin in Mammals Regulations (Northern Ireland) 2007 (S.R. 2007/68), **reg. 84(c)** (with reg. 3)

C12 Art. 42 applied (10.2.2007) by Avian Influenza (Vaccination) Regulations (Northern Ireland) 2007 (S.R. 2007/69), **reg. 22(1)(b)**

C13 Art. 42 applied (10.2.2007) by Avian Influenza (Preventive Measures) Regulations (Northern Ireland) 2007 (S.R. 2007/70), **reg. 18(b)**

C14 Art. 42 applied (24.3.2007) by Avian Influenza (H5N1 in Wild Birds) Regulations (Northern Ireland) 2007 (S.R. 2007/208), **reg. 22(b)**

C15 Art. 42 applied (30.6.2009) by Swine Vesicular Disease Regulations (Northern Ireland) 2009 (S.R. 2009/223), **reg. 45(b)**

Status: Point in time view as at 01/03/2007. This version of this Order contains provisions that are not valid for this point in time.

Changes to legislation: The Diseases of Animals (Northern Ireland) Order 1981 is up to date with all changes known to be in force on or before 30 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

General administrative provisions

Agricultural marketing boards to furnish information to the Department

43. It shall be the duty of every board administering a scheme under^{F41} the Agricultural Marketing Act (Northern Ireland) 1964^{F42} [F43 or the Agricultural Marketing (Northern Ireland) Order 1982] to furnish to the Department at any time such information as the Department may reasonably require for the purposes of its functions under this Order.

- | | |
|------------|---|
| F41 | prosp. rep. by 1982 NI 12 but in force in relation to Pig Marketing Board (see SR 1984/422) and the Milk Marketing Board (see SR 1989/47) |
| F42 | 1964 c. 13 |
| F43 | 1982 NI 12 |

Records and returns

44. The Department may by order require any owner of animals or poultry and any person engaged in the purchase, sale, dispatch, transit or delivery of animals, poultry or the products of animals or poultry—

- (a) to keep such records and retain such documents as may be specified in the order; and
- (b) to furnish to the Department such information and returns as may be so specified; and
- (c) to permit an inspector to inspect and take extracts from such records and documents.

Seizure of records

45.—(1) For the purpose of inspecting records and documents under Article 44 (c) an inspector may, at any time, enter any premises and seize and detain any such records and document found in the premises.

- (2) A power of entry under paragraph (1) shall not be exercisable except—
 - (a) with the consent given by or on behalf of the occupier of the premises; or
 - (b) after at least twenty-four hours' notice of the entry has been served on the occupier of the premises; or
 - (c) under the authority of a warrant granted under paragraph (3).
- (3) Where a justice of the peace is satisfied by complaint on oath—
 - (a) that admission to premises is reasonably required for the purpose specified in the complaint; and
 - (b) that an authorised person would, apart from paragraph (2), be entitled for that purpose to exercise in respect of the premises a power of entry under paragraph (1); and
 - (c) that—
 - (i) admission to the premises has been refused, or that a refusal is apprehended, and (in either case) that notice of the intention to apply for a warrant has been served on the occupier; or
 - (ii) the requirements of paragraph (2) (b) have been complied with; or
 - (iii) an application for admission, or the serving of a notice under paragraph (2) (b), would defeat the object of the entry;

he may issue a warrant under his hand authorising an inspector to enter the premises, by force if necessary.

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(4) A warrant granted under this Article shall continue in force for a period of one month.

(5) Where an inspector seizes any records or documents under paragraph (1), he shall inform the person from whom they are seized.

(6) Where, in pursuance of a power of entry under paragraph (1), entry is made on any premises by an inspector, he shall ensure that the premises are not left less secure by reason of the entry, and the Department shall make good or pay compensation for any damage caused by the inspector in entering the premises, in carrying out any inspection or in making the premises secure.

(7) Any question of disputed compensation under this Article shall be referred to and determined by the Lands Tribunal.

General powers of inspectors

46.—(1) An inspector shall have, for the purposes of this Order, all the powers which a constable has, under this Order or otherwise (except the powers conferred on a constable by Article 42(8), (9) or (10)); and those powers shall be exercisable throughout Northern Ireland.

(2) An inspector may at any time enter any land, building, shed, pen or place—

(a) in which he has reasonable grounds for supposing—

(i) that disease exists or has within fifty-six days existed; or

(ii) that the carcass of a diseased or suspected animal or bird is or has been kept, or has been buried, destroyed, or otherwise disposed of; or

(iii) that there is to be found any pen, place, vehicle or thing in respect of which any person has on any occasion failed to comply with the provisions of this Order, or of an order of the Department; or

(iv) that this Order or an order of the Department has not been or is not being complied with;

(b) for the purpose of ascertaining whether any disease exists or has within fifty-six days existed;

(c) in which he has reasonable grounds for supposing that there is any thing, whether animate or inanimate, by or by means of which it appears to the inspector that any disease might be carried or transmitted, being a thing—

(i) which has been imported and the importation of which is prohibited or regulated by an order under this Order; or

(ii) the use or distribution of which is prescribed and regulated by an order under this Order; or

(iii) the collection, holding or processing of which is prohibited or regulated by an order under this Order.

(3) An inspector may at any time, for the purpose of enforcing any order for protecting animals or poultry from unnecessary suffering,—

(a) examine animals or poultry in any circumstances to which the order relates; and

(b) examine any receptacle or vehicle used for their conveyance or exposure for sale; and

(c) enter any premises, vessel, or aircraft in which the inspector has reasonable ground for supposing that there are animals or poultry exposed for sale, or in course of conveyance, or packed for conveyance or exposure for sale.

(4) For the purpose of ascertaining whether the provisions of this Order or an order of the Department have been or are being complied with, an inspector may at any time enter any pen, vessel, boat, hovercraft, aircraft or vehicle of any other description.

Status: Point in time view as at 01/03/2007. This version of this Order contains provisions that are not valid for this point in time.

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(5) An inspector entering under this Article shall, if required by the owner or occupier or person in charge of the land, building, place, pen, vehicle, vessel, boat or aircraft, state in writing his reasons for entering.

(6) A certificate of a veterinary inspector to the effect that an animal or bird is or was affected with a disease specified in the certificate shall, for the purposes of this Order, be conclusive evidence in all courts of justice of the matter certified.

[^{F44}(7) An inspector may—

- (a) examine—
 - (i) any animals or poultry on or in any land, building, place, pen, vehicle, vessel, boat or aircraft entered by him under this Article, and
 - (ii) any thing found there, whether animate or inanimate, by or by means of which it appears to him that any disease might be carried or transmitted;
- (b) for the purpose of any examination under this Article, apply such tests, take such samples and apply such marks as he considers necessary;
- (c) prohibit the movement of any animals, poultry or thing examined by him under this Order or an order of the Department pending the results of any tests or samples applied or taken by him, except in accordance with a licence granted by the Department and subject to such conditions as may be specified in the licence.

(7A) The Department may by order—

- (a) require an inspector to examine—
 - (i) any animals or poultry on or in any land, building, place, pen, vehicle, vessel, boat or aircraft entered by him under this Article, and
 - (ii) any thing found there, whether animate or inanimate, by or by means of which it appears to the Department that any disease might be carried or transmitted;
- (b) require an inspector to apply such tests, take such samples and apply such marks for the purpose of any examination under this Article or an order of the Department as may be specified in an order under this paragraph;
- (c) prohibit or regulate the movement of any animals, poultry or thing examined by an inspector under this Order or an order of the Department pending the results of any tests or samples so specified;
- (d) provide for exemptions from any such prohibition by means of the grant of licences subject to such conditions as may be specified in the licences.

(7B) For the purpose of any examination by an inspector under this Order or an order of the Department (including the applying of tests, the taking of samples and the applying of marks), the owner or person in charge of any animals, poultry or thing which may be so examined shall comply with all reasonable requirements of the inspector and afford him all other reasonable facilities for that purpose.]

F44 1994 NI 6

Modifications etc. (not altering text)

- C16** Art. 46 applied (23.2.2006) by [Foot-and-Mouth Disease \(Control of Vaccination\) Regulations \(Northern Ireland\) 2006 \(S.R. 2006/43\)](#), **reg. 36(1)(a)**
- C17** Art. 46 applied (10.2.2007) by [Avian Influenza and Influenza of Avian Origin in Mammals Regulations \(Northern Ireland\) 2007 \(S.R. 2007/68\)](#), **reg. 84(d)** (with **reg. 3**)
- C18** Art. 46 applied (10.2.2007) by [Avian Influenza \(Vaccination\) Regulations \(Northern Ireland\) 2007 \(S.R. 2007/69\)](#), **reg. 22(1)(c)**

Status: Point in time view as at 01/03/2007. This version of this Order contains provisions that are not valid for this point in time.

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- C19** Art. 46 applied (10.2.2007) by Avian Influenza (Preventive Measures) Regulations (Northern Ireland) 2007 (S.R. 2007/70), **reg. 18(c)**
- C20** Art. 46 applied (14.8.2007) by Export Restrictions (Foot-and-Mouth Disease) Regulations (Northern Ireland) 2007 (S.R. 2007/357), **reg. 13(3)(a)**
- C21** Art. 46 applied (24.3.2007) by Avian Influenza (H5N1 in Wild Birds) Regulations (Northern Ireland) 2007 (S.R. 2007/208), **reg. 22(c)**
- C22** Art. 46 applied (30.6.2009) by Swine Vesicular Disease Regulations (Northern Ireland) 2009 (S.R. 2009/223), **reg. 37(5)(a)**

[^{F45}Powers of inspectors relating to Community obligations

46A. In addition to the powers conferred by Article 46, an inspector (on producing, if required to do so, some duly authenticated document showing his authority) may at all reasonable hours—

(a) enter—

(i) any land, building, shed, pen or other place, or

(ii) any receptacle, container, ship, vessel, boat, aircraft, hovercraft or vehicle of any other description,

for the purpose of ascertaining whether the provisions of any order made under this Order in implementation of any Community obligation have been or are being complied with, and

(b) carry out such inspections (including documentary inspections) as may be necessary for that purpose.]

F45 SR 1994/161

Modifications etc. (not altering text)

- C23** Art. 46A applied (23.2.2006) by Foot-and-Mouth Disease (Control of Vaccination) Regulations (Northern Ireland) 2006 (S.R. 2006/43), **reg. 36(1)(b)**
- C24** Art. 46A applied (10.2.2007) by Avian Influenza and Influenza of Avian Origin in Mammals Regulations (Northern Ireland) 2007 (S.R. 2007/68), **reg. 84(e)** (with reg. 3)
- C25** Art. 46A applied (10.2.2007) by Avian Influenza (Vaccination) Regulations (Northern Ireland) 2007 (S.R. 2007/69), **reg. 22(1)(d)**
- C26** Art. 46A applied (10.2.2007) by Avian Influenza (Preventive Measures) Regulations (Northern Ireland) 2007 (S.R. 2007/70), **reg. 18(d)**
- C27** Art. 46A applied (24.3.2007) by Avian Influenza (H5N1 in Wild Birds) Regulations (Northern Ireland) 2007 (S.R. 2007/208), **reg. 22(d)**
- C28** Art. 46A applied (14.8.2007) by Export Restrictions (Foot-and-Mouth Disease) Regulations (Northern Ireland) 2007 (S.R. 2007/357), **reg. 13(3)(b)**
- C29** Art. 46A applied (30.6.2009) by Swine Vesicular Disease Regulations (Northern Ireland) 2009 (S.R. 2009/223), **reg. 37(5)(b)**

VALID FROM 12/03/2010

[^{F46}Powers of entry: warrants

46B.—(1) If a lay magistrate is satisfied by complaint on oath that the first condition is satisfied and that the second or third condition is satisfied the lay magistrate may issue a warrant authorising an inspector to enter any premises, if necessary using reasonable force, for any of the purposes mentioned in Article 46, 46A or 47A.

Status: Point in time view as at 01/03/2007. This version of this Order contains provisions that are not valid for this point in time.

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- (2) The complaint shall include—
- (a) a statement as to whether any representations have been made by the occupier of the premises to an inspector concerning the purpose for which the warrant is sought;
 - (b) a summary of any such representations.
- (3) The first condition is that there are reasonable grounds for an inspector to enter the premises for that purpose.
- (4) The second condition is that the occupier of the premises—
- (a) has been informed of the decision to seek entry to the premises and of the reasons for that decision;
 - (b) has failed to allow entry to the premises on being requested to do so by an inspector; and
 - (c) has been informed of the decision to apply for the warrant.
- (5) The third condition is that—
- (a) the premises are unoccupied or the occupier is absent and (in either case) notice of intention to apply for the warrant has been left in a conspicuous place on the premises; or
 - (b) an application for admission to the premises or the giving of notice of intention to apply for the warrant would defeat the object of entering the premises.
- (6) A warrant issued under this Article remains in force for one month starting with the date of its approval by the lay magistrate, which date shall be clearly visible on the warrant.
- (7) A warrant issued under this Article shall be executed only at a reasonable hour unless the inspector thinks that the case is one of urgency.
- (8) In relation to any premises to which entry is obtained by virtue of a warrant under this Article the Department shall retain for a period of not less than 3 years beginning with the day after entry—
- (a) a copy of the warrant;
 - (b) a copy of any record of the steps taken to effect entry to the premises and the actions taken on the premises by the inspector and any other person entering the premises with the inspector.

F46 Arts. 46B-46D inserted (12.3.2010) by [Diseases of Animals Act \(Northern Ireland\) 2010 \(c. 1\)](#), **ss. 4(3)**, 22(1); S.R. 2010/70, **art. 2**

VALID FROM 12/03/2010

Powers of entry: supplementary provisions

46C.—(1) This Article applies to an inspector who enters any premises by virtue of Article 46, 46A or 47A or under a warrant issued under Article 46B.

- (2) The inspector may take with him—
- (a) such other persons as he thinks necessary to give him such assistance as he thinks necessary;
 - (b) such equipment as he thinks necessary.

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(3) The inspector may require any person on the premises who falls within paragraph (5) to give such assistance and provide such facilities as the inspector may reasonably require for the purposes mentioned in Article 46, 46A or 47A, as the case may be.

(4) The inspector may require any person who falls within paragraph (5) to provide his name and address.

(5) The following persons fall within this paragraph—

- (a) the owner or occupier of the premises;
- (b) a person appearing to the inspector to be the owner of, or have charge of, animals or poultry on the premises;
- (c) a person appearing to the inspector to be under the direction or control of a person mentioned in sub-paragraph (a) or (b).

(6) An inspector who enters any premises by virtue of Article 46 or 46A or under a warrant issued under Article 46B may take such samples (including samples from any animal or bird on the premises) and carry out such tests and procedures as he thinks necessary.

(7) An inspector who enters any premises by virtue of Article 46, 46A or 47A or under a warrant issued under Article 46B may—

- (a) inspect any records (in whatever form they are held) relating to the keeping, acquisition or disposal of animals or poultry;
- (b) seize and detain any records which he reasonably thinks may be needed as evidence in any proceedings under or by virtue of this Order.

(8) If the inspector enters any premises by virtue of a warrant issued under Article 46B he shall at the time of entry—

- (a) serve a copy of the warrant on the occupier of the premises; or
- (b) if the occupier is not on the premises, leave a copy of the warrant in a conspicuous place on the premises.

(9) An inspector who enters any premises by virtue of Article 46, 46A or 47A or under a warrant issued under Article 46B shall, if required, produce evidence of his authority to act under the relevant Article.

(10) If the inspector enters any unoccupied premises he must leave them as effectively secured against entry as he found them.

(11) Without prejudice to the generality of Article 52(1)(b), a person commits an offence if—

- (a) he is required to give assistance, or provide facilities, under paragraph (3); and
- (b) he fails to give that assistance or provide those facilities.

F46 Arts. 46B-46D inserted (12.3.2010) by Diseases of Animals Act (Northern Ireland) 2010 (c. 1), ss. 4(3), 22(1); S.R. 2010/70, art. 2

VALID FROM 12/03/2010

Powers of entry under warrant: code of practice

46D.—(1) An inspector who enters any premises by virtue of a warrant issued under Article 46B shall comply with a code of practice which has been published under paragraph (4) and has not been withdrawn.

Status: Point in time view as at 01/03/2007. This version of this Order contains provisions that are not valid for this point in time.

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- (2) The Department shall prepare a code of practice in connection with the exercise by inspectors of a power of entry conferred by virtue of a warrant issued under Article 46B.
- (3) After preparing a draft of the code the Department—
- (a) shall publish the draft in such manner as it thinks appropriate and invite representations regarding the draft;
 - (b) shall consider any representations made to it regarding the draft; and
 - (c) may amend the draft accordingly.
- (4) After the Department has proceeded under paragraph (3) it shall publish the code in such manner as it thinks appropriate.
- (5) The Department shall from time to time review the code and if it thinks it appropriate revise the code.
- (6) Paragraphs (2) to (4) apply to a revision of the code as they apply to its preparation.]

F46 Arts. 46B-46D inserted (12.3.2010) by Diseases of Animals Act (Northern Ireland) 2010 (c. 1), ss. 4(3), 22(1); S.R. 2010/70, art. 2

Powers of entry, etc., in connection with Article 13

47.—(1) In relation to any disease to which Article 13 applies the following persons are authorised officers for the purposes of this Article, namely—

- (a) an officer of the Department;
- (b) a veterinary inspector; and
- (c) any person who, not being such an officer or inspector, is authorised by the Department to exercise the powers conferred by this Article.

(2) Where an authorised officer has reasonable grounds for suspecting, in the case of any area, that there exists among the wild members of any species in the area a disease to which Article 13 applies, he may enter any land in the area and—

- (a) take samples of the wild members of that species, or of their excreta, or of any materials (whether or not forming part of the land) with which wild members of that species may have been in contact;
- (b) carry out any other investigations which he considers necessary for the purpose of determining, as regards that species and that disease, whether an order under Article 13 should be made in respect of the whole or part of the area in question.

(3) An authorised officer may at any time enter any land in the area to which an order under Article 13 applies for any of the following purposes, namely—

- (a) to carry out the destruction of any wild members of a species to which the order relates that may be on that land;
- (b) to take any such measures as are mentioned in paragraph (5) of that Article;
- (c) to ascertain, as regards any wild members of a species to which the order relates, whether destruction has been effectively carried out.

(4) Where in pursuance of an order under Article 13 destruction of wild members of any species to which the order relates has been carried out on any land in the area to which the order applies, then, for the purpose of ascertaining—

- (a) whether the land has been, or is being, recolonised by wild members of that species; and, if so,

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- (b) whether there exists among them the disease to which the order applies (or, if the order has been revoked, to which it previously applied),

an authorised officer may enter the land and take such samples of, or relating to, that species as are mentioned in paragraph (2) (a); so, however, that an authorised officer shall not enter the land or take samples under this paragraph at any time more than two years after the revocation of the order in question.

- (5) Nothing in this Article shall authorise any person to enter a dwelling house.

(6) A person entering any land in the exercise of powers conferred on him by this Article shall, if so required by the owner or occupier or person in charge of the land—

- (a) produce to him some duly authenticated document showing his authority; and
(b) state in writing his reasons for entering.

(7) Without prejudice to paragraph (6), an authorised officer—

- (a) shall not demand admission as of right to any land forming part of a nature reserve (within the meaning of^{F47} Article 2(2) of the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985) maintained or managed by the Department of the Environment under that Act unless seven days' notice of the intended entry has been given to that Department; and
(b) in exercising any of his powers under paragraph (2), (3) or (4) on any such land shall, as far as possible, do so in accordance with such reasonable requirements for minimising damage to flora, fauna or geological or physiographical features within the reserve as may have been notified by the Department of the Environment to the Department.

(8) In this Article, “species” means any species of animals or poultry; and reference to wild members of any species in an area are references to members of the species in the area that are neither domesticated nor held in captivity.

(9) The preceding provisions of this Article are without prejudice to any other powers conferred on inspectors or others under this Order.

F47 1985 NI 1

VALID FROM 12/03/2010

[^{F48}Power to inspect imports

47A.—(1) An inspector may, at all reasonable hours, exercise the powers set out in paragraph (2) for the purpose of—

- (a) enforcing any order made under—
(i) paragraph (1) of Article 24;
(ii) paragraph (1) of Article 29; or
(iii) Article 30;
(b) ascertaining whether such an order is being or has been complied with; or
(c) verifying the identity, origin or destination of any product for the purpose mentioned in sub-paragraph (b).
- (2) An inspector may—
(a) enter any premises (except premises used only as a dwelling-house) and inspect the premises and anything in or on the premises;

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- (b) open any bundle, package, packing case, or item of personal luggage, or require any person in possession of or accompanying the same to open it;
- (c) inspect the contents of any bundle, package, packing case or item of personal luggage opened pursuant to sub-paragraph (b);
- (d) inspect any product, including its packaging, seals, marking, labelling and presentation, and any plant or equipment used for or in connection with any product; and
- (e) take samples of any product.]

F48 Art. 47A inserted (12.3.2010) by Diseases of Animals Act (Northern Ireland) 2010 (c. 1), ss. 18(1), 22(1); S.R. 2010/70, art. 2

Power to detain vessels and aircraft

48.—(1) Where an inspector is satisfied that this Order or an order of the Department has not been or is not being complied with on board a vessel in a port or an aircraft in an aerodrome, then, on the representation in writing to that effect of the inspector, stating particulars of non-compliance, the vessel or aircraft may be detained until the Department otherwise directs.

(2) The officer detaining the vessel or aircraft shall forthwith deliver a copy of the representation to the master of the vessel or pilot of the aircraft or other person having the command or charge of the vessel or aircraft as the case may be.

(3) [^{F49}Section 284 of the Merchant Shipping Act 1995], shall apply in the case of such detention of a vessel as if it were authorised or ordered under that Act, and the Department may by order modify that section or may make such other provision instead of it as the Department thinks expedient, for the purpose of such detention of an aircraft.

F49 1995 c.21

Modifications etc. (not altering text)

- C30** Art. 48 applied (23.2.2006) by Foot-and-Mouth Disease (Control of Vaccination) Regulations (Northern Ireland) 2006 (S.R. 2006/43), reg. 36(1)(e)
- C31** Art. 48 applied (10.2.2007) by Avian Influenza and Influenza of Avian Origin in Mammals Regulations (Northern Ireland) 2007 (S.R. 2007/68), reg. 84(f) (with reg. 3)
- C32** Art. 48 applied (24.3.2007) by Avian Influenza (H5N1 in Wild Birds) Regulations (Northern Ireland) 2007 (S.R. 2007/208), reg. 22(e)
- C33** Art. 48 applied (14.8.2007) by Export Restrictions (Foot-and-Mouth Disease) Regulations (Northern Ireland) 2007 (S.R. 2007/357), reg. 13(3)(c)
- C34** Art. 48 applied (30.6.2009) by Swine Vesicular Disease Regulations (Northern Ireland) 2009 (S.R. 2009/223), reg. 37(5)(c)

VALID FROM 12/03/2010

[^{F50}Examination, cleansing and disinfection of vehicles

48A.—(1) If a vehicle is in a designated area in a designated period, an inspector (on producing, if required to do so, some duly authenticated document showing his authority) may—

- (a) stop, detain and examine that vehicle to ascertain whether the provisions of any of the following are being complied with—

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- (i) this Order;
 - (ii) an order made under this Order;
 - (iii) a bye-law of a district council made in pursuance of an order made under this Order;
- (b) cleanse and disinfect that vehicle.
- (2) In paragraph (1)—
- “designated area” means any area designated by order of the Department and any such area may include the whole of Northern Ireland;
- “designated period” means any period of time designated by order of the Department;
- “vehicle” includes—
- (a) a trailer, semi-trailer or other thing which is designed or adapted to be towed by another vehicle;
 - (b) anything on a vehicle;
 - (c) a detachable part of a vehicle;
 - (d) a container or other structure designed or adapted to be carried by or on a vehicle.]

F50 [Art. 48A](#) inserted (12.3.2010) by [Diseases of Animals Act \(Northern Ireland\) 2010 \(c. 1\)](#), **ss. 19, 22(1)**; [S.R. 2010/70](#), **art. 2**

Exemption from stamp duty and fees

49. No stamp duty shall be payable on, and save as otherwise expressly provided in this Order, no fee or other charge shall be demanded or made for, any appointment, certificate, declaration, licence, or thing under this Order or an order of the Department, or for any inspection or other act precedent to the granting, making, or doing of a certificate, declaration, licence or other thing.

Payment of fees and expenses

50.—(1) Notwithstanding anything in Article 49 the Department may by order made with the approval of the Department of Finance—

- (a) prescribe fees, expenses or other charges to be paid with respect to such business transacted or to be transacted under this Order as may be specified in the order; and
- (b) specify the persons by whom, the time at which and the manner in which such fees and expenses are to be paid.

(2) Where an order under this Article provides for the payment of a fee or expenses before the transaction of the business with respect to which it is payable and the business is not transacted or not wholly transacted, the Department may repay the whole or part of the fee or expenses.

Evidence and service of instruments

51.—(1) In any proceeding under this Order, no proof shall be required of the appointment or handwriting of an inspector or other officer of the Department.

(2) The Department may by order prescribe and regulate the form and mode of service or delivery of notices and other instruments.

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Offences and legal proceedings

Offences

52.—(1) Any person who without lawful authority or excuse, proof of which shall lie on him,—

- (a) contravenes any provision of this Order, or of an order of the Department; or
- (b) refuses to an inspector or other officer, acting in execution of this Order or of an order of the Department, admission to any land, building, place, vessel, aircraft, pen, vehicle, or boat which the inspector or officer is entitled to enter or examine, or obstructs or impedes him in so entering or examining, or otherwise in any respect obstructs or impedes an inspector or constable or other officer in the execution of his duty, or
- (c) in purported compliance with a requirement to furnish information which is imposed on him under Article 7, knowingly or recklessly furnishes information which is false in a material particular, or
- (d) throws or places, or causes or suffers to be thrown or placed, into or in any river, stream, canal, navigation or other water, or into or in the sea within 4.8 kilometres of the shore, the carcass of an animal or bird which has died of disease, or been slaughtered as diseased or suspected,

shall be guilty of an offence against this Order.

(2) Subject to Article 54, any person who—

- (a) has in his possession any thing which has been imported in contravention of an order of the Department, or
- [^{F51}(aa) has in his possession any animal or poultry which is marked in contravention of an order of the Department or any other thing which is specified by order of the Department for the purposes of this sub-paragraph, or]
- (b) with intent unlawfully to evade this Order or an order of the Department, does anything for which a licence is requisite under this Order or an order of the Department without having obtained a licence, or
- (c) where a licence is requisite, having obtained a licence with the like intent, does the thing licensed after the licence has expired, or
- (d) uses or offers as such a licence an instrument not being a complete licence, or an instrument untruly purporting or appearing to be a licence, or
- (e) with intent unlawfully to evade this Order or an order of the Department, alters, falsely makes, ante-dates, counterfeits, offers or utters, knowing the same to be altered, falsely made, ante-dated or counterfeited, a licence, declaration, certificate, or instrument made or issued, or purporting to be made or issued, under or for any purpose of this Order or of an order of the Department, or
- (f) for the purpose of obtaining a licence, certificate, or instrument, makes a declaration or statement false in any material particular, or
- (g) obtains or endeavours to obtain such a licence, certificate, or instrument by means of a false pretence, or
- (h) grants or issues such a licence, certificate, or instrument, being false in any date or other material particular, or
- (i) grants or issues such a licence, certificate, or instrument, having and knowing that he has, no lawful authority to grant or issue the same, or
- (j) with intent unlawfully to evade or defeat this Order or an order of the Department, grants or issues an instrument being in form a licence, certificate, or instrument made or issued

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under this Order or an order of the Department for permitting or regulating the movement of a particular animal or bird, or the doing of any other particular thing, but being issued in blank, that is to say, not being before the issue filled up so as to specify any particular animal, bird or thing, or

- (k) uses or offers for any purpose of this Order or of an order of the Department, an instrument so issued in blank, or

Sub#para. (l) rep. by SR 2003/495

- (m) where the Department has by order prohibited, absolutely or conditionally, the use for the carrying of animals, or for any purpose connected with the carrying of animals, of a vessel, aircraft, vehicle or pen, or other place, without lawful authority or excuse, proof of which shall lie on him, does anything so prohibited, or
- (n) in any record or return required under this Order to be kept or made by him, or in any application for compensation made by him in pursuance of a scheme under Article 8, makes any statement which is false in a material respect,

shall be guilty of an offence against this Order.

(3) Subject to paragraphs (5) and (6), a person guilty of an offence against this Order shall be liable on summary conviction—

- (a) to a fine—
- (i) not exceeding^[F52] level 5 on the standard scale; or
 - (ii) in the case of an offence committed with respect to more than five animals or birds, not exceeding^[F52] level 3 on the standard scale for each animal or bird; or
 - (iii) in the case of an offence committed in relation to carcasses or other inanimate things, not exceeding^[F52] level 5 on the standard scale together with a further fine not exceeding^[F52] level 3 on the standard scale in respect of every 508 kilogrammes in weight of the carcasses or other things after the first 508 kilogrammes; or
- (b) in the case of an offence under paragraph (2) (b) to (n), to imprisonment for a term not exceeding two months.

(4) Where a person is convicted of an offence under sub-paragraphs (a), (b), (c) or (d) of paragraph (1) and is guilty of an offence against that sub-paragraph within one year after the conviction he shall be guilty of a further offence and shall be liable either to the fine mentioned in paragraph (3) (a) or to imprisonment for a term not exceeding one month.

(5) ^[F51]A person guilty of an offence against this Order by reason of the contravention of any provision in Article 24, 29 or 30 or any order made under any such provision shall be liable—

- (a) on summary conviction, to the fine mentioned in paragraph (3) (a); or
- (b) on conviction on indictment, to imprisonment for a term not exceeding twelve months, or to a fine or both.

(6) A person guilty of an offence against this Order which is declared to be such by an order made under this Order and expressed to be made for the purpose of preventing the introduction or spreading of rabies into or within Northern Ireland shall, if that order so directs, be liable on summary conviction to a fine not exceeding^[F52] level 5 on the standard scale].

F51 1984 NI 2

F52 1984 NI 3

Modifications etc. (not altering text)

C35 Art. 52 applied (23.2.2006) by [Foot-and-Mouth Disease Regulations \(Northern Ireland\) 2006 \(S.R. 2006/42\)](#), **reg. 60(c)**;

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- Art. 52 applied (23.2.2006) by Foot-and-Mouth Disease (Control of Vaccination) Regulations (Northern Ireland) 2006 (S.R. 2006/43), **reg. 40(c)**
- C36** Art. 52 applied (10.2.2007) by Avian Influenza and Influenza of Avian Origin in Mammals Regulations (Northern Ireland) 2007 (S.R. 2007/68), **reg. 84(g)** (with reg. 3)
- C37** Art. 52 applied (with modifications) (10.2.2007) by Avian Influenza (Vaccination) Regulations (Northern Ireland) 2007 (S.R. 2007/69), **reg. 22(2)**
- C38** Art. 52 applied (10.2.2007) by Avian Influenza (Preventive Measures) Regulations (Northern Ireland) 2007 (S.R. 2007/70), **reg. 18(e)**
- C39** Art. 52 applied (24.3.2007) by Avian Influenza (H5N1 in Wild Birds) Regulations (Northern Ireland) 2007 (S.R. 2007/208), **reg. 22(f)**

Offences in respect of Article 3

53.—(1) Any person who knowingly or recklessly makes any false statement for the purpose of obtaining for himself or any other person any sum payable under Article 3 shall, unless in the case of an indictable offence he is indicted for the offence, be guilty of an offence and shall be liable on summary conviction to a fine not exceeding^{F53} level 3 on the standard scale] or to imprisonment for a term not exceeding three months, or to both.

(2) Any person who obstructs or impedes any person duly authorised under Article 9 to make any inspection shall be guilty of an offence and shall be liable on summary conviction—

- (a) in the case of a first offence to a fine not exceeding^{F53} level 3 on the standard scale]; and
- (b) in the case of a second or subsequent offence, to a fine not exceeding £50 or to imprisonment for a term not exceeding one month, or to both.

(3) In considering for the purposes of paragraph (2) or subsection (3) of section 40 of the Agriculture Act (Northern Ireland) 1949^{F54}, whether an offence is or is not a first offence, references to an offence punishable under this paragraph or that subsection shall be taken as including references to offences punishable under that subsection or this paragraph, as the case may be, or under subsection (2) of section 30 of the Agriculture Act 1937^{F55}.

- F53** 1984 NI 3
F54 1949 c. 2 (NI)
F55 1937 c. 70

Modifications etc. (not altering text)

- C40** Art. 53 applied (23.2.2006) by Foot-and-Mouth Disease Regulations (Northern Ireland) 2006 (S.R. 2006/42), **reg. 60(d)**

Defences and evidence

54.—(1) Where the owner or person in charge of any animal or bird is charged with an offence against this Order relative to disease or to any illness of that animal or bird, he shall be presumed to have known of the existence of the disease or illness, unless and until he shows to the satisfaction of the court that he had no knowledge of it, and could not with reasonable diligence have obtained that knowledge.

(2) Where a person is charged with an offence under Article 52(2) (a) and he satisfies the court that he had no reason to suppose the thing to have been unlawfully imported, and that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence, the charge against him shall be dismissed.

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(3) Where a person is charged with an offence under Article 52(2) (d), and he satisfies the court that he did not know of the incompleteness of the licence or that it untruly purported or appeared to be a licence and that he could not with reasonable diligence have attained knowledge of it, the charge against him shall be dismissed.

(4) Where a person is charged with an offence under Article 52(2) (f), (g), (h) or (n) (false statements, pretences or particulars) and he satisfies the court that he did not know of, and in the case of an offence under Article 52(2)(n) that he had no reason to suspect, that falsity and that he could not with reasonable diligence have obtained knowledge of it, the charge against him shall be dismissed.

(5) Where a person is charged with an offence under Article 52(2) (k) and he satisfies the court that he did not know that the instrument had been issued in blank and that he could not with reasonable diligence have obtained knowledge of it, the charge against him shall be dismissed.

(6) Where a person is charged with an offence against this Order in not having duly cleansed or disinfected any place, vessel, aircraft, vehicle, or thing belonging to him or under his charge, and a presumption against him on the part of the prosecution is raised, it shall lie on him to prove the due cleansing and disinfection.

Modifications etc. (not altering text)

- C41 [Art. 54](#) applied (23.2.2006) by [Foot-and-Mouth Disease \(Control of Vaccination\) Regulations \(Northern Ireland\) 2006 \(S.R. 2006/43\)](#), [reg. 40\(d\)](#)
- C42 [Art. 54](#) applied (10.2.2007) by [Avian Influenza and Influenza of Avian Origin in Mammals Regulations \(Northern Ireland\) 2007 \(S.R. 2007/68\)](#), [reg. 84\(h\)](#) (with [reg. 3](#))
- C43 [Art. 54](#) applied (10.2.2007) by [Avian Influenza \(Vaccination\) Regulations \(Northern Ireland\) 2007 \(S.R. 2007/69\)](#), [reg. 22\(1\)\(e\)](#)
- C44 [Art. 54](#) applied (10.2.2007) by [Avian Influenza \(Preventive Measures\) Regulations \(Northern Ireland\) 2007 \(S.R. 2007/70\)](#), [reg. 18\(f\)](#)
- C45 [Art. 54](#) applied (24.3.2007) by [Avian Influenza \(H5N1 in Wild Birds\) Regulations \(Northern Ireland\) 2007 \(S.R. 2007/208\)](#), [reg. 22\(g\)](#)
- C46 [Art. 54](#) applied (30.6.2009) by [Swine Vesicular Disease Regulations \(Northern Ireland\) 2009 \(S.R. 2009/223\)](#), [reg. 45\(c\)](#)

Extension of time for bringing summary proceedings

55.—(1) Summary proceedings for an offence under this Order other than such an offence which is also triable upon indictment by virtue of Article 52(5) may be commenced at any time within the period of three years from the commission of the offence or within the period of six months from the date on which evidence sufficient to justify a prosecution for the offence comes to the knowledge of the Department, whichever period first expires.

(2) For the purposes of paragraph (1) a certificate purporting to be signed by the Head of the Department or a secretary or assistant secretary of the Department as to the date on which such evidence came to the knowledge of the Department shall be prima facie evidence of that fact.

Modifications etc. (not altering text)

- C47 [Art. 55](#) applied (23.2.2006) by [Foot-and-Mouth Disease Regulations \(Northern Ireland\) 2006 \(S.R. 2006/42\)](#), [reg. 60\(e\)](#);
[Art. 55](#) applied (23.2.2006) by [Foot-and-Mouth Disease \(Control of Vaccination\) Regulations \(Northern Ireland\) 2006 \(S.R. 2006/43\)](#), [reg. 40\(e\)](#)
- C48 [Art. 55](#) applied (10.2.2007) by [Avian Influenza and Influenza of Avian Origin in Mammals Regulations \(Northern Ireland\) 2007 \(S.R. 2007/68\)](#), [reg. 84\(i\)](#) (with [reg. 3](#))

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- C49** Art. 55 applied (10.2.2007) by Avian Influenza (Vaccination) Regulations (Northern Ireland) 2007 (S.R. 2007/69), **reg. 22(1)(f)**
- C50** Art. 55 applied (10.2.2007) by Avian Influenza (Preventive Measures) Regulations (Northern Ireland) 2007 (S.R. 2007/70), **reg. 18(g)**
- C51** Art. 55 applied (24.3.2007) by Avian Influenza (H5N1 in Wild Birds) Regulations (Northern Ireland) 2007 (S.R. 2007/208), **reg. 22(h)**
- C52** Art. 55 applied (30.6.2009) by Swine Vesicular Disease Regulations (Northern Ireland) 2009 (S.R. 2009/223), **reg. 45(d)**

Venue

56. Every offence against this Order shall be deemed to have been committed, and every cause of complaint or matter for summary proceedings under this Order or an order of the Department shall be deemed to have arisen, either in any place where the same actually was committed or arose, or in any place where the person charged or complained of or proceeded against happens to be at the time of the institution or commencement of the charge, complaint, or proceedings.

Modifications etc. (not altering text)

- C53** Art. 56 applied (23.2.2006) by Foot-and-Mouth Disease Regulations (Northern Ireland) 2006 (S.R. 2006/42), **reg. 60(f)**;
Art. 56 applied (23.2.2006) by Foot-and-Mouth Disease (Control of Vaccination) Regulations (Northern Ireland) 2006 (S.R. 2006/43), **reg. 40(f)**
- C54** Art. 56 applied (10.2.2007) by Avian Influenza and Influenza of Avian Origin in Mammals Regulations (Northern Ireland) 2007 (S.R. 2007/68), **reg. 84(j)** (with reg. 3)
- C55** Art. 56 applied (10.2.2007) by Avian Influenza (Vaccination) Regulations (Northern Ireland) 2007 (S.R. 2007/69), **reg. 22(1)(g)**
- C56** Art. 56 applied (10.2.2007) by Avian Influenza (Preventive Measures) Regulations (Northern Ireland) 2007 (S.R. 2007/70), **reg. 18(h)**
- C57** Art. 56 applied (24.3.2007) by Avian Influenza (H5N1 in Wild Birds) Regulations (Northern Ireland) 2007 (S.R. 2007/208), **reg. 22(i)**

Proceedings under Customs Acts for unlawful landing or shipping

57.—(1) If any person lands or ships or attempts to land or ship an animal, bird or thing in contravention of this Order or of an order of the Department, he shall be liable, under and according to the Customs Acts, to the penalties imposed on persons importing or exporting or attempting to import or export goods the importation or exportation of which is prohibited by or under the Customs Acts, without prejudice to any proceeding against him under this Order for an offence against this Order.

(2) The animal, bird or thing in respect of which the offence is committed shall be forfeited under and according to the Customs Acts in like manner as goods the importation of which is prohibited by or under the Customs Acts.

Modifications etc. (not altering text)

- C58** Art. 57 applied (23.2.2006) by Foot-and-Mouth Disease Regulations (Northern Ireland) 2006 (S.R. 2006/42), **reg. 60(g)**;
Art. 57 applied (23.2.2006) by Foot-and-Mouth Disease (Control of Vaccination) Regulations (Northern Ireland) 2006 (S.R. 2006/43), **reg. 40(g)**

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- C59** Art. 57 applied (10.2.2007) by Avian Influenza and Influenza of Avian Origin in Mammals Regulations (Northern Ireland) 2007 (S.R. 2007/68), **reg. 84(k)** (with reg. 3)
- C60** Art. 57 applied (10.2.2007) by Avian Influenza (Vaccination) Regulations (Northern Ireland) 2007 (S.R. 2007/69), **reg. 22(1)(h)**
- C61** Art. 57 applied (24.3.2007) by Avian Influenza (H5N1 in Wild Birds) Regulations (Northern Ireland) 2007 (S.R. 2007/208), **reg. 22(j)**

Payment of compensation, etc., and liabilities of persons other than owners

Persons to whom compensation, etc., may be paid and liabilities of persons other than owners

58.—(1) Where the Department is authorised or required by any provision of this Order to make any payment by way of compensation or otherwise in respect of animals or poultry, the Department may make the payment to the person appearing to it to be the owner of the animals or poultry and the payment to such person shall be a complete discharge of the Department's liability to make the payment.

(2) Where, under paragraph (1), any payment is made in respect of animals or poultry to a person who is not the owner of the animals or poultry, that person shall, subject to any agreement to the contrary between him and the owner, be liable to pay to the owner an amount equal to the amount of that payment and any amount which a person is liable to pay to an owner under this paragraph shall be a debt recoverable summarily by the owner from that person.

(3) Where animals or poultry are hired under a hire-purchase agreement—

- (a) the Department may, where a payment is authorised or required to be made under Article 3, otherwise than in respect of animals or poultry which have been slaughtered, treat the hirer as the owner of those animals or poultry;
- (b) the provisions of Articles 5(1) (d), 18(4), 40(1) and 46(7) shall apply to those animals and poultry as if references in those provisions to the owner included references to the hirer.

Functions of the Department

Yearly return by Department

59.—(1) The Department shall once in every year make and lay before the Assembly a return stating the proceedings and expenditure of the Department under this Order, and showing the number of imported animals landed and found diseased in the last preceding financial year, specifying separately—

- (a) the different kinds of disease; and
- (b) the ports, aerodromes and landing places of exportation and landing; and
- (c) the mode of disposal of the animals;

and containing such other information respecting the operation of this Order as the Department thinks fit.

(2) The return under this Article may be made and laid before the Assembly as part of the yearly report required by section 26 of the Agriculture and Technical Instruction (Ireland) Act 1899^{F56}.

F56 1899 c. 50

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General power to make orders

- 60.—^{F57}(1) The Department may make such orders as it thinks fit—
- (a) generally for the better execution of this Order or for the purpose of in any manner preventing the spreading of disease; and
 - (b) in particular for the several purposes specified in this Order.]
- (2) An order under paragraph (1) may—
- (a) require animals which may be carriers of rabies to be kept in quarantine in such cases, for such periods and under such conditions as may be specified in the order;
 - (b) prohibit or regulate the keeping and importation of rabies virus in any form and the deliberate introduction of the virus into animals and provide for exemptions from any such prohibition by means of the grant of licences^{F58} subject to such conditions as may be specified in the licences].

F57 1994 NI 6

F58 1984 NI 2

Supplemental

Orders

61.—(1) Orders made under Articles 3(2), 8(1), 13, 16^{F59} (1A) or] (2),^{F60} . . . 33(3), 34, 36(1) (c), 39(3) and 50(1) and any order made under Article 2(3) which modifies Schedule 2 so as to extend the provisions of this Order shall be subject to negative resolution.

(2) An order of the Department in relation to the landing or conveyance of imported animals or poultry shall be laid before the Assembly.

(3) Where the Department makes an order under this Order which is not subject to negative resolution under paragraph^{F59} (1)], the Department shall publish in the Belfast Gazette a notice stating that the order has been made and the place where copies of the order may be obtained; but the validity or effect of such an order or of any licence or other instrument issued by the Department shall not be affected by want of, or defect or irregularity in, any publication.

F59 1994 NI 6

F60 1984 NI 2

Amendments, transitional provisions and repeals

Para. (1)—Amendments

(2) The transitional provisions contained in Schedule 6 shall have effect for the purposes of this Order.

Para. (3)—Repeals

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