
STATUTORY RULES OF NORTHERN IRELAND

2004 No. 361

Brucellosis Control Order (Northern Ireland) 2004

PART V

SLAUGHTER, COMPENSATION AND APPEALS

Power to slaughter

15.—(1) Subject to paragraphs (2) and (3), the Department shall slaughter or cause to be slaughtered any reactor and may slaughter or cause to be slaughtered any suspected animal or other animal which is or has been in contact with a reactor or which in the opinion of a veterinary inspector has been in any way exposed to a significant risk of infection with disease.

(2) Where the Department is satisfied that an animal should be slaughtered in accordance with paragraph (1), it shall serve a notice on the keeper of the animal stating that the Department proposes to slaughter the animal and requiring the keeper, pending such slaughter, to detain the animal on the premises specified in the notice and isolate it from other animals and to comply with such other requirements as may be specified in the notice.

(3) Where the Department considers that any animal in respect of which a notice has been served under paragraph (2) ought not to be slaughtered it shall serve a notice on the keeper of the animal stating that fact and revoking the notice under that paragraph.

(4) The keeper of an animal in respect of which there is a notice under paragraph (2) in force shall comply with the requirements of that notice and shall –

- (a) not move or cause or permit to be moved such animal from the premises specified in the notice, except under and in accordance with the conditions of a licence issued by the Department;
- (b) maintain, at his own expense, such animal until it is removed for slaughter by or on behalf of the Department;
- (c) provide facilities that in the opinion of the Department are adequate to ensure the safety of any person involved in determining the market value of the animal or arranging its removal for slaughter;
- (d) collect, pen, restrain or otherwise secure and present the animal, in such manner and at such time as the Department shall require, for the purpose of determining its market value or arranging its removal for slaughter; and
- (e) make clean water available for the cleansing and disinfection of clothing and equipment used by any person in connection with the determination of the market value of the animal.

Valuation and compensation

16.—(1) Where the Department causes an animal to be slaughtered in accordance with Article 15 the compensation payable by the Department shall be –

- (a) in the case of a reactor an amount equal to 75% of either –

- (i) the animal's market value, or
 - (ii) a figure calculated in accordance with the provisions of Schedule 1,
- whichever is the less;

(b) in every other case, an amount equal to its market value.

(2) For the purposes of this Order the market value of an animal means the price which might reasonably have been obtained for it, at the time of valuation in accordance with this Article or Article 17, from a purchaser in the market if it had been free from disease.

(3) Upon service of a notice in respect of an animal under Article 15(2), the Department shall (unless the notice has previously been revoked) make an initial assessment of the market value of the animal for the purposes of paragraph (1) and shall notify the owner of that assessment.

(4) Subject to the following paragraphs and Article 17, the market value of an animal which the Department proposes to cause to be slaughtered shall, for the purposes of compensation under paragraph (1), be determined before slaughter by agreement, between the Department and the owner of the animal, if the agreement is reached within 3 working days of the Department informing the owner of its initial assessment of the market value under paragraph (3).

(5) If the Department and the owner of an animal fail to agree the market value of the animal in accordance with paragraph (4), the Department shall submit a list of independent valuers, approved by it for the purposes of this Article, to the owner and, within 2 working days of receiving this list, the owner shall –

- (a) nominate a valuer (hereinafter referred to as the “nominated valuer”) from the list; and
- (b) notify the Department of the name and address of the nominated valuer.

(6) Within 8 working days of the owner of the animal notifying the Department of the name and address of the nominated valuer in accordance with paragraph (5) –

- (a) the owner shall arrange for the nominated valuer to determine the market value of the animal and shall be liable for any costs, fees or other expenses incurred by the valuer in carrying out the valuation; and
- (b) the nominated valuer shall carry out the valuation and shall give to the Department and the owner a certificate in writing of his determination of the market value of the animal.

(7) Where the owner of an animal or the nominated valuer fails to comply with, in the case of the owner, paragraphs (5) or (6)(a) or, in the case of the nominated valuer, paragraph (6)(b), the Department shall determine the market value of the animal.

(8) The calculation of the market value of an animal under this Article or Article 17 shall not take account of any sum to which the owner might have become entitled in respect of the animal under any other statutory or any Community provision.

(9) The amount of compensation payable to the owner of the animal under this Article shall be without prejudice to any entitlement of that person to any payments in respect of the animal under any other statutory or any Community provision.

(10) Notwithstanding any other provisions of this Article the Department may cause an animal, in respect of which a notice under Article 15(2) is in force, to be slaughtered prior to the determination of its market value under this Article or Article 17 –

- (a) where such slaughter is necessary to prevent the spread of disease;
- (b) to establish if there has been interference with any sample taken or test carried out under this Order or Scheme whereby the result of the test is intended to be affected; or
- (c) where in the judgement of the Department the keeper has been guilty of an offence tending to prejudice the due control of the disease.

(11) Notwithstanding any other provisions of this Article the market value of an animal to which paragraph (10) applies shall be determined by the Department.

Appeals

17.—(1) The Department or the owner of an animal may submit an appeal to a tribunal of persons, appointed by the Department for the purpose, if dissatisfied with the determination of the market value of the animal –

- (a) in the case of an appeal by the Department, under Article 16(6)(b); or
- (b) in the case of an appeal by the owner, under Article 16(6)(b), (7) or (11).

(2) An appeal to a tribunal under this Article shall be submitted in writing within 30 working days of the determination of market value to which it relates and shall be accompanied by –

- (a) full details of the grounds upon which the appeal is sought including documentary or other evidence; and
- (b) the change sought to the valuation.

(3) Following its consideration of an appeal submitted by the Department or the owner of the animal, the tribunal shall determine the market value of the animal in question and such determination shall be final and binding on the Department and the owner.