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## STATUTORY INSTRUMENTS

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# 1981 No. 1115

## The Diseases of Animals (Northern Ireland) Order 1981

### PART IV

#### MISCELLANEOUS AND GENERAL

##### *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 [<sup>F1</sup>premises] 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
- [<sup>F2</sup>(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

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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 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 [F<sup>3</sup>paragraphs (5) to (8)], a person guilty of an offence against this Order shall be liable on summary conviction—

- (a) to a fine—
  - (i) not exceeding[F<sup>4</sup> 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[F<sup>4</sup> 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[F<sup>4</sup> level 5 on the standard scale] together with a further fine not exceeding[F<sup>4</sup> 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) [F<sup>2</sup>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—

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- (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<sup>[F4]</sup> level 5 on the standard scale].

<sup>[F5]</sup>(7) A person guilty of an offence under Article 5A shall be liable—

- (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.]

<sup>[F6]</sup>(8) A person who—

- (a) fails to give his name and address when required to do so under Article 46C(4); or
- (b) gives a false or inaccurate name or address in response to a requirement under that Article,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.]

- F1** Word in [art. 52\(1\)\(b\)](#) substituted (12.3.2010) by [Diseases of Animals Act \(Northern Ireland\) 2010](#) (c. 1), [ss. 4\(4\)](#), 22(1); S.R. 2010/70, [art. 2](#)
- F2** [1984 NI 2](#)
- F3** Words in [art. 52\(3\)](#) substituted (12.3.2010) by [Diseases of Animals Act \(Northern Ireland\) 2010](#) (c. 1), [ss. 21\(1\)](#), 22(1), [Sch. 2 para. 3](#); S.R. 2010/70, [art. 2](#)
- F4** [1984 NI 3](#)
- F5** [Art. 52\(7\)](#) added (12.3.2010) by [Diseases of Animals Act \(Northern Ireland\) 2010](#) (c. 1), [ss. 10\(2\)](#), 22(1); S.R. 2010/70, [art. 2](#)
- F6** [Art. 52\(8\)](#) added (12.3.2010) by [Diseases of Animals Act \(Northern Ireland\) 2010](#) (c. 1), [ss. 5](#), 22(1); S.R. 2010/70, [art. 2](#)

#### Modifications etc. (not altering text)

- C1** [Art. 52](#) applied (23.2.2006) by [Foot-and-Mouth Disease Regulations \(Northern Ireland\) 2006](#) (S.R. 2006/42), [reg. 60\(c\)](#);  
[Art. 52](#) applied (23.2.2006) by [Foot-and-Mouth Disease \(Control of Vaccination\) Regulations \(Northern Ireland\) 2006](#) (S.R. 2006/43), [reg. 40\(c\)](#)
- C2** [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](#))
- C3** [Art. 52](#) applied (with modifications) (10.2.2007) by [Avian Influenza \(Vaccination\) Regulations \(Northern Ireland\) 2007](#) (S.R. 2007/69), [reg. 22\(2\)](#)
- C4** [Art. 52](#) applied (10.2.2007) by [Avian Influenza \(Preventive Measures\) Regulations \(Northern Ireland\) 2007](#) (S.R. 2007/70), [reg. 18\(e\)](#)
- C5** [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

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summary conviction to a fine not exceeding<sup>F7</sup> 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<sup>F7</sup> 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<sup>F8</sup>, 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<sup>F9</sup>.

**F7** 1984 NI 3

**F8** 1949 c. 2 (NI)

**F9** 1937 c. 70

#### **Modifications etc. (not altering text)**

**C6** 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.

(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.

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#### Modifications etc. (not altering text)

- C7** 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)**
- C8** 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)
- C9** Art. 54 applied (10.2.2007) by Avian Influenza (Vaccination) Regulations (Northern Ireland) 2007 (S.R. 2007/69), **reg. 22(1)(e)**
- C10** Art. 54 applied (10.2.2007) by Avian Influenza (Preventive Measures) Regulations (Northern Ireland) 2007 (S.R. 2007/70), **reg. 18(f)**
- C11** Art. 54 applied (24.3.2007) by Avian Influenza (H5N1 in Wild Birds) Regulations (Northern Ireland) 2007 (S.R. 2007/208), **reg. 22(g)**
- C12** 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 [<sup>F10</sup>twelve] 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.

- F10** Word in [art. 55\(1\)](#) substituted (12.3.2010) by [Diseases of Animals Act \(Northern Ireland\) 2010 \(c. 1\)](#), [ss. 6, 22\(1\)](#); [S.R. 2010/70](#), [art. 2](#) (with transitional provision [art. 3](#))

#### Modifications etc. (not altering text)

- C13** 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)**
- C14** 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)
- C15** Art. 55 applied (10.2.2007) by Avian Influenza (Vaccination) Regulations (Northern Ireland) 2007 (S.R. 2007/69), **reg. 22(1)(f)**
- C16** Art. 55 applied (10.2.2007) by Avian Influenza (Preventive Measures) Regulations (Northern Ireland) 2007 (S.R. 2007/70), **reg. 18(g)**
- C17** Art. 55 applied (24.3.2007) by Avian Influenza (H5N1 in Wild Birds) Regulations (Northern Ireland) 2007 (S.R. 2007/208), **reg. 22(h)**
- C18** 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

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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)

- C19** 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)**
- C20** 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)
- C21** Art. 56 applied (10.2.2007) by Avian Influenza (Vaccination) Regulations (Northern Ireland) 2007 (S.R. 2007/69), **reg. 22(1)(g)**
- C22** Art. 56 applied (10.2.2007) by Avian Influenza (Preventive Measures) Regulations (Northern Ireland) 2007 (S.R. 2007/70), **reg. 18(h)**
- C23** 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)

- C24** 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)**
- C25** 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)
- C26** Art. 57 applied (10.2.2007) by Avian Influenza (Vaccination) Regulations (Northern Ireland) 2007 (S.R. 2007/69), **reg. 22(1)(h)**
- C27** Art. 57 applied (24.3.2007) by Avian Influenza (H5N1 in Wild Birds) Regulations (Northern Ireland) 2007 (S.R. 2007/208), **reg. 22(j)**

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**Changes and effects yet to be applied to :**

- Instrument am (pt prosp) by [S.I. 1994/1891 \(N.I.\) arts.19-23](#)
- Instrument rep in pt by [S.I. 1994/1891 \(N.I.\) art.24\(1\)Sch](#)