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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

##### *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<sup>F1</sup> 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.

**F1** 1847 c. 14

##### **Burial of carcasses**

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

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(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<sup>F2</sup> . . . 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<sup>F2</sup> . . . 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.

**F2** 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,<sup>F3</sup> whether stopping or detaining a person as mentioned in paragraph (2) or arresting under [<sup>F4</sup>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) <sup>F5</sup> . . . . .

(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.

(8) [<sup>F6</sup>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

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- (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) <sup>F7</sup> .....

(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.

**F3** 1989 NI 12

**F4** 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)**

**F5** 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)**

**F6** 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)**

**F7** 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)

**C1** 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)**

**C2** 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)

**C3** Art. 42 applied (10.2.2007) by Avian Influenza (Vaccination) Regulations (Northern Ireland) 2007 (S.R. 2007/69), **reg. 22(1)(b)**

**C4** Art. 42 applied (10.2.2007) by Avian Influenza (Preventive Measures) Regulations (Northern Ireland) 2007 (S.R. 2007/70), **reg. 18(b)**

**C5** Art. 42 applied (24.3.2007) by Avian Influenza (H5N1 in Wild Birds) Regulations (Northern Ireland) 2007 (S.R. 2007/208), **reg. 22(b)**

**C6** Art. 42 applied (30.6.2009) by Swine Vesicular Disease Regulations (Northern Ireland) 2009 (S.R. 2009/223), **reg. 45(b)**

#### 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<sup>F8</sup> the Agricultural Marketing Act (Northern Ireland) 1964<sup>F9</sup>[<sup>F10</sup> 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.

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- F8** 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)
- F9** [1964 c. 13](#)
- F10** [1982 NI 12](#)

## Records and returns

**44.** The Department may by order require any owner of [<sup>F11</sup>, or person in charge 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.

- F11** Words in [art. 44](#) inserted (12.3.2010) by [Diseases of Animals Act \(Northern Ireland\) 2010 \(c. 1\)](#), [ss. 17, 22\(1\)](#); [S.R. 2010/70](#), [art. 2](#)

## 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.
- (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 [<sup>F12</sup>premises]—

(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 [<sup>F13</sup>pen, place, receptacle, container or thing or ship, vessel, boat, aircraft, hovercraft or vehicle of any other description] 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.

[<sup>F14</sup>(2A) An inspector may at all reasonable times enter premises—

(a) for the purpose of—

- (i) ascertaining whether a power conferred by or under this Order to cause an animal or bird to be slaughtered should be exercised;
- (ii) doing anything in the exercise of that power;

(b) for the purpose of exercising any power conferred by Article 11.

(2B) An inspector may at all reasonable times enter premises for the purpose of ascertaining—

- (a) the identity of any animal or bird;
- (b) whether an immune response exists in animals or poultry on the premises;
- (c) whether any animal or bird on the premises or which was kept there at any time is, or was at that time, infected with disease;

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- (d) whether any causative agent of disease in animals or poultry is present on the premises.
- (2C) An inspector may at all reasonable times enter premises for the purpose of—
  - (a) carrying out any function he has under or in pursuance of Part 2A, or
  - (b) ascertaining whether any such function should be exercised.]
- (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 <sup>F15</sup>. . . 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 [<sup>F16</sup>premises].
- (5) An inspector entering under this Article shall, if required by the owner or occupier or person in charge of the [<sup>F17</sup>premises], state in writing his reasons for entering.
- [<sup>F18</sup>(5A) Paragraphs (1) to (4) do not apply to any premises used exclusively as a dwelling-house unless 24 hours' notice of the intended entry is given to the occupier of the premises.]
- (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.
- [<sup>F19</sup>(7) An inspector may—
  - (a) examine—
    - (i) any animals or poultry on or in any [<sup>F20</sup>premises] 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 [<sup>F21</sup>premises] 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;

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- (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.

[<sup>F22</sup>(7B) In this Article “causative agent” includes any virus, bacterium, and any other organism or infectious substance or particle which may cause or transmit disease.]]

- F12** Word in art. 46(2) substituted (12.3.2010) by Diseases of Animals Act (Northern Ireland) 2010 (c. 1), ss. 4(1)(a)(i), 22(1); S.R. 2010/70, art. 2
- F13** Words in art. 46(2)(a)(iii) substituted (12.3.2010) by Diseases of Animals Act (Northern Ireland) 2010 (c. 1), ss. 4(1)(a)(ii), 22(1); S.R. 2010/70, art. 2
- F14** Art. 46(2A)-(2C) inserted (12.3.2010) by Diseases of Animals Act (Northern Ireland) 2010 (c. 1), ss. 4(1)(b), 22(1); S.R. 2010/70, art. 2
- F15** Words in art. 46(3)(c) repealed (12.3.2010) by Diseases of Animals Act (Northern Ireland) 2010 (c. 1), ss. 4(1)(c), 21(2), 22(1), Sch. 3; S.R. 2010/70, art. 2
- F16** Word in art. 46(4) substituted (12.3.2010) by Diseases of Animals Act (Northern Ireland) 2010 (c. 1), ss. 4(1)(d), 22(1); S.R. 2010/70, art. 2
- F17** Word in art. 46(5) substituted (12.3.2010) by Diseases of Animals Act (Northern Ireland) 2010 (c. 1), ss. 4(1)(e), 22(1); S.R. 2010/70, art. 2
- F18** Art. 46(5A) inserted (12.3.2010) by Diseases of Animals Act (Northern Ireland) 2010 (c. 1), ss. 4(1)(f), 22(1); S.R. 2010/70, art. 2
- F19** 1994 NI 6
- F20** Word in art. 46(7)(a)(i) substituted (12.3.2010) by Diseases of Animals Act (Northern Ireland) 2010 (c. 1), ss. 4(1)(g), 22(1); S.R. 2010/70, art. 2
- F21** Word in art. 46(7A)(a)(i) substituted (12.3.2010) by Diseases of Animals Act (Northern Ireland) 2010 (c. 1), ss. 4(1)(g), 22(1); S.R. 2010/70, art. 2
- F22** Art. 46(7B) substituted (12.3.2010) by Diseases of Animals Act (Northern Ireland) 2010 (c. 1), ss. 4(1)(h), 22(1); S.R. 2010/70, art. 2

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

- C7** 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)
- C8** 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)
- C9** Art. 46 applied (10.2.2007) by Avian Influenza (Vaccination) Regulations (Northern Ireland) 2007 (S.R. 2007/69), reg. 22(1)(c)
- C10** Art. 46 applied (10.2.2007) by Avian Influenza (Preventive Measures) Regulations (Northern Ireland) 2007 (S.R. 2007/70), reg. 18(c)
- C11** 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)
- C12** Art. 46 applied (24.3.2007) by Avian Influenza (H5N1 in Wild Birds) Regulations (Northern Ireland) 2007 (S.R. 2007/208), reg. 22(c)
- C13** Art. 46 applied (30.6.2009) by Swine Vesicular Disease Regulations (Northern Ireland) 2009 (S.R. 2009/223), reg. 37(5)(a)

[<sup>F23</sup>Powers of inspectors relating to [<sup>F24</sup>[<sup>F25</sup>assimilated] law or Protocol] obligations

46A.—[

<sup>F26</sup>(1)] 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—

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[<sup>F27</sup>(a) enter premises—

- (i) for the purpose of ascertaining whether any [<sup>F28</sup>assimilated] law within any order made under this Order has been or is being complied with;
- (ii) for the purpose of ascertaining whether any relevant Protocol obligation has been or is being complied with; or
- (iii) for the purpose of ascertaining whether any provisions of an order made under this Order which implement a relevant Protocol obligation have been or are being complied with, and]

(b) carry out such inspections (including documentary inspections) as may be necessary for [<sup>F29</sup>any of those purposes].]

[<sup>F30</sup>(2) In this Article—

“relevant Protocol obligation” means any obligation created or arising by or under the relevant part of the Northern Ireland Protocol, whether or not an obligation to which section 7A(2) of the European Union (Withdrawal) Act 2018 applies;

“the relevant part of the Northern Ireland Protocol” means article 5(4) of the Northern Ireland Protocol so far as relating to sections 36 to 39 of Annex 2 to that Protocol;

“the Northern Ireland Protocol” means the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement.]

**F23** SR 1994/161

**F24** Words in art. 46A heading substituted (31.12.2020) by [The Plant Health and Diseases of Animals \(Amendment\) \(EU Exit\) Regulations \(Northern Ireland\) 2020](#) (S.R. 2020/327), regs. 1(3), **3(3)**

**F25** Words in art. 46A heading substituted (1.1.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendment\) Regulations 2023](#) (S.I. 2023/1424), reg. 1(2), **Sch. para. 15**

**F26** Art. 46A renumbered as art. 46A(1) (31.12.2020) by [The Plant Health and Diseases of Animals \(Amendment\) \(EU Exit\) Regulations \(Northern Ireland\) 2020](#) (S.R. 2020/327), regs. 1(3), **3(4)**

**F27** Art. 46A(1)(a) substituted (31.12.2020) by [The Plant Health and Diseases of Animals \(Amendment\) \(EU Exit\) Regulations \(Northern Ireland\) 2020](#) (S.R. 2020/327), regs. 1(3), **3(5)(a)**

**F28** Words in art. 46A(1)(a) substituted (1.1.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendment\) Regulations 2023](#) (S.I. 2023/1424), reg. 1(2), **Sch. para. 15**

**F29** Words in art. 46A(1)(b) substituted (31.12.2020) by [The Plant Health and Diseases of Animals \(Amendment\) \(EU Exit\) Regulations \(Northern Ireland\) 2020](#) (S.R. 2020/327), regs. 1(3), **3(5)(b)**

**F30** Art. 46A(2) inserted (31.12.2020) by [The Plant Health and Diseases of Animals \(Amendment\) \(EU Exit\) Regulations \(Northern Ireland\) 2020](#) (S.R. 2020/327), regs. 1(3), **3(6)**

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

**C14** 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)**

**C15** 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)

**C16** Art. 46A applied (10.2.2007) by [Avian Influenza \(Vaccination\) Regulations \(Northern Ireland\) 2007](#) (S.R. 2007/69), **reg. 22(1)(d)**

**C17** Art. 46A applied (10.2.2007) by [Avian Influenza \(Preventive Measures\) Regulations \(Northern Ireland\) 2007](#) (S.R. 2007/70), **reg. 18(d)**

**C18** Art. 46A applied (24.3.2007) by [Avian Influenza \(H5N1 in Wild Birds\) Regulations \(Northern Ireland\) 2007](#) (S.R. 2007/208), **reg. 22(d)**

**C19** 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)**

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**C20** Art. 46A applied (30.6.2009) by [Swine Vesicular Disease Regulations \(Northern Ireland\) 2009 \(S.R. 2009/223\)](#), [reg. 37\(5\)\(b\)](#)

### **[<sup>F31</sup>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.

(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.

**F31** [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: 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;

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- (b) such equipment as he thinks necessary.
- (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.

**F31** 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 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.

(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—

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- (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.]

**F31** 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,
- (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

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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<sup>F32</sup> 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.

**F32** 1985 NI 1

### **[<sup>F33</sup>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;
  - (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

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(e) take samples of any product.]

**F33** 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) [<sup>F34</sup>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.

**F34** 1995 c.21

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

- C21** 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)(c)
- C22** 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)
- C23** Art. 48 applied (24.3.2007) by Avian Influenza (H5N1 in Wild Birds) Regulations (Northern Ireland) 2007 (S.R. 2007/208), reg. 22(e)
- C24** 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)
- C25** Art. 48 applied (30.6.2009) by Swine Vesicular Disease Regulations (Northern Ireland) 2009 (S.R. 2009/223), reg. 37(5)(c)

### [<sup>F35</sup>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—
  - (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—

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- (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.]

**F35** 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 [<sup>F36</sup>any appointment, certificate, declaration, licence, registration, approval or other 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.

**F36** Words in art. 50(1)(a) substituted (12.3.2010) by Diseases of Animals Act (Northern Ireland) 2010 (c. 1), ss. 9(2), 22(1); S.R. 2010/70, art. 2

### 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.

## 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>F37</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

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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>F38</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 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,

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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 <sup>F39</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<sup>F40</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<sup>F40</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<sup>F40</sup> level 5 on the standard scale] together with a further fine not exceeding<sup>F40</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) <sup>F38</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—

- (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>F40</sup> level 5 on the standard scale].

<sup>F41</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>F42</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.]

**F37** 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](#)

**F38** 1984 NI 2

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- F39** 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**
- F40** 1984 NI 3
- F41** 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**
- F42** 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)

- C26** 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)**
- C27** 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)
- C28** Art. 52 applied (with modifications) (10.2.2007) by Avian Influenza (Vaccination) Regulations (Northern Ireland) 2007 (S.R. 2007/69), **reg. 22(2)**
- C29** Art. 52 applied (10.2.2007) by Avian Influenza (Preventive Measures) Regulations (Northern Ireland) 2007 (S.R. 2007/70), **reg. 18(e)**
- C30** 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<sup>F43</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>F43</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>F44</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>F45</sup>.

- F43** 1984 NI 3
- F44** 1949 c. 2 (NI)
- F45** 1937 c. 70

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

- C31** Art. 53 applied (23.2.2006) by Foot-and-Mouth Disease Regulations (Northern Ireland) 2006 (S.R. 2006/42), **reg. 60(d)**

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## 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.

### Modifications etc. (not altering text)

- C32** 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)**
- C33** 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)
- C34** Art. 54 applied (10.2.2007) by Avian Influenza (Vaccination) Regulations (Northern Ireland) 2007 (S.R. 2007/69), **reg. 22(1)(e)**
- C35** Art. 54 applied (10.2.2007) by Avian Influenza (Preventive Measures) Regulations (Northern Ireland) 2007 (S.R. 2007/70), **reg. 18(f)**
- C36** Art. 54 applied (24.3.2007) by Avian Influenza (H5N1 in Wild Birds) Regulations (Northern Ireland) 2007 (S.R. 2007/208), **reg. 22(g)**
- C37** 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>F46</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.

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(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.

- F46** 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)

- C38** [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\(e\)](#)
- C39** [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](#))
- C40** [Art. 55](#) applied (10.2.2007) by [Avian Influenza \(Vaccination\) Regulations \(Northern Ireland\) 2007 \(S.R. 2007/69\)](#), [reg. 22\(1\)\(f\)](#)
- C41** [Art. 55](#) applied (10.2.2007) by [Avian Influenza \(Preventive Measures\) Regulations \(Northern Ireland\) 2007 \(S.R. 2007/70\)](#), [reg. 18\(g\)](#)
- C42** [Art. 55](#) applied (24.3.2007) by [Avian Influenza \(H5N1 in Wild Birds\) Regulations \(Northern Ireland\) 2007 \(S.R. 2007/208\)](#), [reg. 22\(h\)](#)
- C43** [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)

- C44** [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\(f\)](#)
- C45** [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](#))
- C46** [Art. 56](#) applied (10.2.2007) by [Avian Influenza \(Vaccination\) Regulations \(Northern Ireland\) 2007 \(S.R. 2007/69\)](#), [reg. 22\(1\)\(g\)](#)
- C47** [Art. 56](#) applied (10.2.2007) by [Avian Influenza \(Preventive Measures\) Regulations \(Northern Ireland\) 2007 \(S.R. 2007/70\)](#), [reg. 18\(h\)](#)
- C48** [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

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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)**

- C49** [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)**
- C50** [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)
- C51** [Art. 57](#) applied (10.2.2007) by [Avian Influenza \(Vaccination\) Regulations \(Northern Ireland\) 2007 \(S.R. 2007/69\)](#), **reg. 22(1)(h)**
- C52** [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—

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- (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<sup>F47</sup>.

**F47** 1899 c. 50

### General power to make orders

**60.**—<sup>F48</sup>(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<sup>F49</sup> subject to such conditions as may be specified in the licences].

**F48** 1994 NI 6

**F49** 1984 NI 2

### Supplemental

#### Orders

**61.**—(1) Orders made under Articles 3(2), <sup>F50</sup>4A(1), 4B(3),] 8(1), <sup>F51</sup>8A(1),] 13, 16<sup>F52</sup> (1A) or] (2), <sup>F53</sup>16A(1) or (3), 19A(1), 32A, 32B(1), 32D(7), 32E(2), 32F(5), 32I(1),]<sup>F54</sup>. . . 33(3), 34, 36(1) (c), <sup>F55</sup>39(3), 48A(2) 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<sup>F52</sup> (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.

**F50** Words in art. 61(1) inserted (12.3.2010) by Diseases of Animals Act (Northern Ireland) 2010 (c. 1), ss. 20(a), 22(1); S.R. 2010/70, art. 2

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|------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>F51</b> | Words in <a href="#">art. 61(1)</a> inserted (12.3.2010) by <a href="#">Diseases of Animals Act (Northern Ireland) 2010 (c. 1)</a> , <a href="#">ss. 20(b)</a> , 22(1); S.R. 2010/70, <a href="#">art. 2</a>    |
| <b>F52</b> | <a href="#">1994 NI 6</a>                                                                                                                                                                                       |
| <b>F53</b> | Words in <a href="#">art. 61(1)</a> inserted (12.3.2010) by <a href="#">Diseases of Animals Act (Northern Ireland) 2010 (c. 1)</a> , <a href="#">ss. 20(c)</a> , 22(1); S.R. 2010/70, <a href="#">art. 2</a>    |
| <b>F54</b> | <a href="#">1984 NI 2</a>                                                                                                                                                                                       |
| <b>F55</b> | Words in <a href="#">art. 61(1)</a> substituted (12.3.2010) by <a href="#">Diseases of Animals Act (Northern Ireland) 2010 (c. 1)</a> , <a href="#">ss. 20(d)</a> , 22(1); S.R. 2010/70, <a href="#">art. 2</a> |

## 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*

**Changes to legislation:**

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

- art. 46A heading words substituted by [S.I. 2019/158 reg. 2\(2\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Regs. 2, 3 revoked (12.12.2020) by S.R. 2020/327, regs. 1(2), 5)
- 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](#)