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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

##### *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>F1</sup> the Agricultural Marketing Act (Northern Ireland) 1964<sup>F2</sup>[<sup>F3</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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| <b>F1</b> | prosp. rep. by <a href="#">1982 NI 12</a> but in force in relation to Pig Marketing Board (see SR 1984/422) and the Milk Marketing Board (see SR 1989/47) |
| <b>F2</b> | <a href="#">1964 c. 13</a>  |
| <b>F3</b> | <a href="#">1982 NI 12</a>  |

#### **Records and returns**

**44.** The Department may by order require any owner of [<sup>F4</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.

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| <b>F4</b> | Words in <a href="#">art. 44</a> inserted (12.3.2010) by <a href="#">Diseases of Animals Act (Northern Ireland) 2010 (c. 1)</a> , <a href="#">ss. 17, 22(1)</a> ; S.R. 2010/70, <a href="#">art. 2</a> |
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#### **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

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- (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>F5</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>F6</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>F7</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;
  - (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>F8</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>F9</sup>premises].
- (5) An inspector entering under this Article shall, if required by the owner or occupier or person in charge of the [<sup>F10</sup>premises], state in writing his reasons for entering.
- [<sup>F11</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>F12</sup>(7) An inspector may—
- (a) examine—

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- (i) any animals or poultry on or in any [<sup>F13</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>F14</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;
  - (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>F15</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.]]

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| <b>F5</b>  | 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              |
| <b>F6</b>  | 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    |
| <b>F7</b>  | 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                      |
| <b>F8</b>  | 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 |
| <b>F9</b>  | 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                 |
| <b>F10</b> | 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                 |
| <b>F11</b> | 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                           |
| <b>F12</b> | 1994 NI 6  |
| <b>F13</b> | 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           |
| <b>F14</b> | 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          |
| <b>F15</b> | 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)**

- C1** 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)**
- C2** 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)
- C3** Art. 46 applied (10.2.2007) by Avian Influenza (Vaccination) Regulations (Northern Ireland) 2007 (S.R. 2007/69), **reg. 22(1)(c)**
- C4** Art. 46 applied (10.2.2007) by Avian Influenza (Preventive Measures) Regulations (Northern Ireland) 2007 (S.R. 2007/70), **reg. 18(c)**
- C5** 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)**
- C6** Art. 46 applied (24.3.2007) by Avian Influenza (H5N1 in Wild Birds) Regulations (Northern Ireland) 2007 (S.R. 2007/208), **reg. 22(c)**
- C7** Art. 46 applied (30.6.2009) by Swine Vesicular Disease Regulations (Northern Ireland) 2009 (S.R. 2009/223), **reg. 37(5)(a)**

**[<sup>F16</sup>Powers of inspectors relating to [<sup>F17</sup>[<sup>F18</sup>assimilated] law or Protocol] obligations**

**46A.—**[

<sup>F19</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—

[<sup>F20</sup>(a) enter premises—

- (i) for the purpose of ascertaining whether any [<sup>F21</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>F22</sup>any of those purposes].]

[<sup>F23</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.]

**F16** SR 1994/161

**F17** 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)**

**F18** 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**

**F19** 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)**

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- F20** 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)**
- F21** 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**
- F22** 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)**
- F23** 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)

- C8** 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)**
- C9** 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)
- C10** Art. 46A applied (10.2.2007) by [Avian Influenza \(Vaccination\) Regulations \(Northern Ireland\) 2007 \(S.R. 2007/69\)](#), **reg. 22(1)(d)**
- C11** Art. 46A applied (10.2.2007) by [Avian Influenza \(Preventive Measures\) Regulations \(Northern Ireland\) 2007 \(S.R. 2007/70\)](#), **reg. 18(d)**
- C12** Art. 46A applied (24.3.2007) by [Avian Influenza \(H5N1 in Wild Birds\) Regulations \(Northern Ireland\) 2007 \(S.R. 2007/208\)](#), **reg. 22(d)**
- C13** 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)**
- C14** Art. 46A applied (30.6.2009) by [Swine Vesicular Disease Regulations \(Northern Ireland\) 2009 \(S.R. 2009/223\)](#), **reg. 37(5)(b)**

#### [<sup>F24</sup>P] 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.

**F24** 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;
- (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

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(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.

**F24** 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—

- (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.]

**F24** 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 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>F25</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.

## [<sup>F26</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
  - (e) take samples of any product.]

**F26** 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>F27</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.

**F27** 1995 c.21

### Modifications etc. (not altering text)

**C15** 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)

**C16** 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)

**Changes to legislation:** The Diseases of Animals (Northern Ireland) Order 1981, Cross Heading: General administrative provisions is up to date with all changes known to be in force on or before 29 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- C17** Art. 48 applied (24.3.2007) by Avian Influenza (H5N1 in Wild Birds) Regulations (Northern Ireland) 2007 (S.R. 2007/208), **reg. 22(e)**
- C18** 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)**
- C19** Art. 48 applied (30.6.2009) by Swine Vesicular Disease Regulations (Northern Ireland) 2009 (S.R. 2009/223), **reg. 37(5)(c)**

### [<sup>F28</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—

- (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.]

**F28** 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>F29</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.

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**Changes to legislation:** *The Diseases of Animals (Northern Ireland) Order 1981, Cross Heading: General administrative provisions is up to date with all changes known to be in force on or before 29 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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(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.

**F29** 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.

**Changes to legislation:**

The Diseases of Animals (Northern Ireland) Order 1981, Cross Heading: General administrative provisions is up to date with all changes known to be in force on or before 29 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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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](#)