

**2011 No. 436**

**ANIMALS**

**AGRICULTURE**

**The Northern Ireland Poultry Health Assurance Scheme Order  
(Northern Ireland) 2011**

*Made* - - - - *21st December 2011*

*Coming into operation* - *1st January 2012*

The Department of Agriculture and Rural Development is a Department designated for the purposes of section 2(2) of the European Communities Act 1972(a) in relation to the common agricultural policy of the European Union(b).

This Order makes provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Department of Agriculture and Rural Development that it is expedient for references in this Order to Council Directive 2009/158/EC on animal conditions governing intra-Community trade in, and imports from third countries of, poultry and hatching eggs(c) to be construed as references to those instruments as amended from time to time.

The Department of Agriculture and Rural Development makes the following Order in exercise of the powers conferred on it by Article 8(1), (2) and (5) of the Diseases of Animals (Northern Ireland) Order 1981(d) and section 2(2) of, as read with paragraph 1A of Schedule 2 to, the European Communities Act 1972 having consulted with bodies which appeared to it to be substantially representative of the interests concerned and with the approval of the Department of Finance and Personnel.

**Citation and commencement**

1. This Order may be cited as the Northern Ireland Poultry Health Assurance Scheme Order (Northern Ireland) 2011 and shall come into operation on 1st January 2012.

**The Northern Ireland Poultry Health Assurance Scheme**

2. For the purposes of approving and monitoring poultry establishments engaging in trade between Member States of poultry and hatching eggs as required by Article 6 of, and Annex II to, Council Directive 2009/158/EC (on animal conditions governing intra-Community trade in, and

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(a) 1972 c.68. paragraph 1A was inserted into Schedule 2 by section 28 of the Legislative and Regulatory Reform Act 2006 (c.51)

(b) S. I. 2000/2812

(c) O.J. No.L343, 22.12.2009, p.74

(d) S.I. 1981/1115 (N.I. 22)

imports from third countries of, poultry and hatching eggs) the Department hereby makes the Scheme set out in the Schedule.

Sealed with the Official Seal of the Department of Agriculture and Rural Development on 21st December 2011.



*C. McMaster*

A senior officer of the Department of Agriculture and Rural Development

Sealed with the Official Seal of the Department of Finance and Personnel on 21st December 2011.



*Jack Layberry*

A senior officer of the Department of Finance and Personnel

## SCHEDULE

Article 2

# THE NORTHERN IRELAND POULTRY HEALTH ASSURANCE SCHEME

## PART I

### INTRODUCTION

#### **Interpretation**

1. For the purposes of this Schedule—

“audit inspection” means a supplementary check to verify application of hygiene measures and the operation of the establishment in accordance with the conditions laid down in Chapter II of Council Directive 2009/158/EC on animal health conditions governing intra-Community trade in, and imports from third countries of, poultry and hatching eggs;

“designated laboratory” means a laboratory designated by the Department for the purposes of this Order;

“the Department” means the Department of Agriculture and Rural Development;

“the Directive” means Council Directive 2009/158/EC (on animal health conditions governing intra-Community trade in, and imports from third countries, of poultry and hatching eggs) as amended from time to time;

“Fees Order” means The Northern Ireland Poultry Health Assurance Scheme (Fees) Order (Northern Ireland) 2011; and

“inspector” means a person appointed to be an inspector for the purposes of this Order by the Department and includes a veterinary inspector.

#### **Competent Authority**

2. The Department is the competent authority for the purposes of the Directive.

#### **Approvals and notices**

3. Any approval granted or notice issued by the Department under this Order—

(a) may be subject to conditions;

(b) shall be in writing; and

(c) may be amended, suspended or withdrawn by a further notice in writing served on the same person at any time.

#### **Exports**

4.—(1) A person shall not export to another Member State any hatching eggs, day-old chicks or poultry to which Article 6 of the Directive applies unless they originate from an establishment that—

(a) is a member of the monitoring scheme, known as the Northern Ireland Poultry Health Assurance Scheme, operated by the Department in accordance with this scheme; and

(b) conforms with the requirements of Annex II to the Directive,

and to do so is an offence under regulation 5(1) of the Trade in Animals and Related Products Regulations (Northern Ireland) 2011(a).

(2) An establishment to which paragraph (1)(a) applies is to be considered an approved establishment for the purpose of Article 6(a)(i) of the Directive.

(3) If the Department has reasonable cause to suspect that an establishment which has been withdrawn or suspended from the Scheme intends to export any hatching eggs, day-old chicks or poultry in contravention of paragraph (1), it may by notice served on the consignor, his representative or person appearing to be in charge of the hatching eggs, day-old chicks or poultry—

- (a) prohibit that exportation of those hatching eggs, day-old chicks or poultry; and
- (b) require that person immediately to detain them at such place as may be specified in the notice and to take such further action in relation to it as may be so specified.

(4) If any hatching eggs, day-old chicks or poultry have been exported to a Member State in contravention of paragraph (1) and returned to Northern Ireland (whether with the authorisation of the Department or not), the Department may by notice served on the person appearing to it to be in charge of the hatching eggs, day-old chicks or poultry, the consignor or his representative—

- (a) prohibit the re-export of those hatching eggs, day-old chicks or poultry, whether to the same or another Member State; and
- (b) require that person immediately to detain them at such place as may be specified in the notice and take such further action in relation to them as may be so specified.

(5) In the event of a notice served under paragraph (3) or (4) not being complied with, an inspector may seize or cause to be seized any hatching eggs, day-old chicks or poultry to which it relates and arrange for the requirements of the notice to be complied with.

### **Powers of inspectors**

5.—(1) An inspector may, on producing, if required to do so, some duly authenticated document showing his authority, at all reasonable hours enter any land or premises for the purposes of ascertaining whether there is or has been on the premises any contravention of this Order.

(2) An inspector may carry out all checks and examinations necessary for the enforcement of the Directive, and in particular may—

- (a) carry out inspections of any processes used for the marking and identification of animals, any premises and any installation;
- (b) take samples (and, if necessary, send the samples for laboratory testing) from any hatching eggs, day-old chicks or poultry being transported in the course of intra-Community trade;
- (c) examine documentary or data processing material relevant to the checks carried out under this Order; and
- (d) be accompanied by a representative of the European Commission acting for the purposes of the Directive.

(3) In this paragraph “premises” includes any place, installation, road, or rail vehicle, ship, vessel, boat, craft, hovercraft or aircraft.

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(a) S.R. 2011 No. 438

## PART II

### THE NORTHERN IRELAND POULTRY HEALTH ASSURANCE SCHEME

#### Membership

6.—(1) Any application for an establishment to become a member of the Northern Ireland Poultry Health Assurance Scheme shall be accompanied by the registration fee, as set out in the Fees Order.

(2) The Department shall grant membership of the Northern Ireland Poultry Health Assurance Scheme to an establishment if—

- (a) it is satisfied, following an inspection by a veterinary inspector directly employed by the Department, that—
  - (i) the operator of the establishment will comply, and ensure that the establishment complies, with the requirements of point 1 of Chapter I of Annex II to the Directive; and
  - (ii) the establishment meets the requirements regarding facilities in Chapter II of Annex II to the Directive; and
- (b) the operator of the establishment, having been notified that the Department is satisfied that the requirements in sub-paragraph (a) are met and has paid the registration fee, which includes the first year membership fee as set out in the Fees Order.

7.—(1) The disease surveillance programme referred to in paragraph (b) of point 1 of Chapter I of Annex II to the Directive shall—

- (a) consist of the disease surveillance measures specified in Chapter III of Annex II to the Directive; and
- (b) any additional testing requirements that a veterinary inspector notifies in writing to an establishment as being requirements that he believes are necessary to avoid the spreading of contagious disease through intra Community trade between Member States taking into account the particular circumstances at that establishment.

8. On acceptance of membership to the Northern Ireland Poultry Health Assurance Scheme the Department shall issue the establishment's membership certificate which shall include the establishment's membership number.

9. The operator of an establishment that is a member of the Northern Ireland Poultry Health Assurance Scheme shall pay the annual membership fee each year and shall pay any re-inspection fee, when it becomes due.

#### Annual Inspection and Supplementary Audit Inspection

10.—(1) In order to ensure that operators and their establishments continue to meet the requirements for membership of the Northern Ireland Poultry Health Assurance Scheme, and generally to ensure compliance with the requirements of point 1 of Chapter I of Annex II to the Directive, an annual inspection of the establishment shall be carried out by an Authorised Veterinary Inspector (AVI).

(2) Any supplementary audit inspection to meet the requirements of Chapter I of Annex II to the Directive shall be carried out by a veterinary inspector directly employed by the Department.

(3) The number of supplementary audit inspections to be carried out each year shall be determined by the Department.

(4) The supplementary audit inspection fee, as set out in the Fees Order, shall be paid to the Department.

(5) In this paragraph "AVI" means a private veterinary practitioner authorised by the Department for the purposes of this Order.

### **Re-inspection**

**11.**—(1) Without prejudice to any action which may be taken under paragraph 12, where, at the annual veterinary inspection of an operator's establishment, that operator or the establishment, do not appear to the Department to meet the requirements—

- (i) for membership of the Scheme; or
- (ii) of the Directive,

a veterinary inspector directly employed by the Department shall carry out such re-inspections as the Department considers necessary to ensure compliance on the part of that operator and his establishment with those requirements.

(2) A re-inspection fee, as set out in the Fees Order, shall—

- (a) be charged for each such re-inspection; and
- (b) become due upon the receipt of an invoice for that fee by the operator concerned.

### **Withdrawal of membership**

**12.** The Department shall by notice—

- (a) suspend, withdraw or restore membership in accordance with Chapter IV of Annex II to the Directive;
- (b) suspend or withdraw membership if—
  - (i) the operator or the establishment is in breach of any of the requirements in point 1 of Chapter I of Annex II to the Directive;
  - (ii) an establishment is in breach of any of the requirements regarding facilities in Chapter II of Annex II to the Directive;
  - (iii) ownership or control of an establishment changes; or
  - (iv) the operator has not paid the registration fee, the annual membership fee or if a re-inspection fee remains unpaid 30 days after becoming due.

## **PART III**

### **DESIGNATION OF LABORATORIES UNDER THE NORTHERN IRELAND POULTRY HEALTH ASSURANCE SCHEME**

#### **Designation of laboratories**

**13.**—(1) The Department may designate any laboratory that it considers to be suitable for the purpose of carrying out Salmonella and Mycoplasma testing under the Northern Ireland Poultry Health Assurance Scheme.

(2) A laboratory must be accredited to ISO 17025 in order to be designated under the Scheme.

**14.** The Department may, by notice, suspend or revoke a designation granted to a laboratory under paragraph 13 where—

- (a) it considers that the laboratory cannot meet the conditions on which the designation was granted; or
- (b) if in its opinion the laboratory otherwise appears no longer suitable for the purposes of carrying out Salmonella and Mycoplasma testing under the Northern Ireland Poultry Health Assurance Scheme.

**15.** The Department may, by notice, end a suspension of a designation imposed under paragraph 14 if it is satisfied that the laboratory concerned has taken adequate measures to enable it to fulfil the conditions of the designation.

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order provides a statutory basis for the Northern Ireland Poultry Health Assurance Scheme.

The Scheme is a means of approving and monitoring poultry establishments engaging in intra-Community trade of poultry and hatching eggs. The approval and monitoring of such establishments is a requirement of Council Directive 2009/158/EC. The Directive prohibits exports unless the commodities originate from an establishment that is a member of the Northern Ireland Poultry Health Assurance Scheme and conforms to the requirements of Directive 2009/158/EC. It also provides for powers for suspension or revocation of membership under specified circumstances.

A full impact assessment has not been produced for this instrument as no impact on the private, voluntary or public sectors is foreseen.

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