

Diseases of Animals Bill

[AS INTRODUCED]

CONTENTS

Power to slaughter

1. Slaughter to prevent spread of disease
2. Slaughter of animals and poultry treated with serum or vaccine

Transmissible spongiform encephalopathies

3. Transmissible spongiform encephalopathies

Enforcement

4. Powers of entry
5. Failure to give name and address
6. Fixed penalties for certain offences
7. Prosecutions: time limit

General

8. Biosecurity guidance
9. Power to regulate the supply of fodder
10. Fees and expenses
11. Deliberate infection
12. Seizure and destruction of things liable to spread disease
13. Control of vaccines
14. Treatment of animals or poultry
15. Regulation of movement of animals and poultry
16. Registration and approval of livestock dealers
17. Export of animals and poultry
18. Records and returns
19. Inspection, etc., of imports
20. Power to inspect, cleanse and disinfect vehicles
21. Procedure for orders

Supplementary

22. Minor and consequential amendments and repeals
23. Commencement
24. Short title

SCHEDULES:

Schedule 1	Transmissible spongiform encephalopathies
Schedule 2	Minor and consequential amendments of the 1981 Order
Schedule 3	Repeals

A

B I L L

TO

Amend the Diseases of Animals (Northern Ireland) Order 1981, including provision for preventing the spread of disease; and for connected purposes.

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

Power to slaughter

Slaughter to prevent spread of disease

5 **1.** In Article 16 of the Diseases of Animals (Northern Ireland) Order 1981 (NI 22) (in this Act referred to as “the 1981 Order”) (slaughter of diseased and suspected animals and poultry)—

(a) for paragraph (1), substitute—

“(1) Schedule 2 has effect as to the slaughter of animals and poultry in relation to any disease specified in that Schedule.”;

(b) after paragraph (2) add—

10 “(3) An order under paragraph (2) may, in particular, include provision authorising or requiring the slaughter of animals or poultry which the Department thinks should be slaughtered with a view to preventing the spread of any disease whether or not the animals or poultry—

- 15 (a) are affected with the disease or suspected of being so affected;
(b) are or have been in contact with animals or poultry so affected;
(c) have been in any way exposed to the disease;
(d) have been treated with serum or vaccine (or both) against the disease.”.

Slaughter of animals and poultry treated with serum or vaccine

20 **2.** After Article 16 of the 1981 Order insert—

“Slaughter of animals and poultry treated with serum or vaccine

16A.—(1) This Article applies to any animal or bird which has been treated with serum or vaccine (or both) for the purpose of controlling disease or preventing the spread of any disease specified for the purposes of this Article by order of the Department.

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(2) The Department may cause to be slaughtered any animal or bird to which this Article applies.

(3) The Department shall, by order, make provision for compensation in respect of the slaughter of any animal or bird under this Article.”.

Transmissible spongiform encephalopathies

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Transmissible spongiform encephalopathies

3. Schedule 1 makes provision about transmissible spongiform encephalopathies.

Enforcement

Powers of entry

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4.—(1) In Article 46 of the 1981 Order (general powers of inspectors)—

(a) in paragraph (2)—

(i) for “land, building, shed, pen or place” substitute “premises”;

(ii) in sub-paragraph (a)(iii) for “pen, place, vehicle or thing” substitute “pen, place, receptacle, container or thing or ship, vessel, boat, aircraft, hovercraft or vehicle of any other description”;

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(b) after paragraph (2) insert—

“(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;

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(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—

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(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—

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- (a) carrying out any function he has under or in pursuance of Part 2A,
or
- (b) ascertaining whether any such function should be exercised.”;
- (c) in paragraph (3)(c) omit “, vessel, or aircraft”;
- 5 (d) in paragraph (4), for the words from “pen” to the end of that paragraph
substitute “premises”;
- (e) in paragraph (5) for “land, building, place, pen, vehicle, vessel, boat or
aircraft” substitute “premises”;
- (f) after paragraph (5) insert—
- 10 “(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.”;
- (g) in paragraphs (7)(a)(i) and (7A)(a)(i) for “land, building, place, pen,
vehicle, vessel, boat or aircraft” substitute “premises”;
- 15 (h) for paragraph (7B) substitute—
“(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.”.
- (2) In Article 46A of the 1981 Order (powers of inspectors relating to
20 Community obligations), in paragraph (a), for the words from “enter” to “for”
substitute “enter premises for”.
- (3) After Article 46A of the 1981 Order insert—

“Powers of entry: warrants

- 25 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—
- 30 (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
35 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
40 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. 5
- (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. 10
- (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; 15
 - (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.

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. 20
- (2) The inspector may take with him—
- (a) such other persons as he thinks necessary to give him such assistance as he thinks necessary; 25
 - (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. 30
- (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; 35
 - (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. 40

(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;

5 (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—

10 (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.

15 (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—

20 (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.”.

(4) In Article 52 of the 1981 Order (offences), in paragraph (1)(b), for “land, building, place, vessel, aircraft, pen, vehicle, or boat” substitute “premises”.

25 **Failure to give name and address**

5. In Article 52 of the 1981 Order (offences), after paragraph (7) (as added to that Article by section 11(2) of this Act) add—

“(8) A person who—

30 (a) fails to give his name and address when required to do so under Article 46C(4) or sub-paragraph (2) of paragraph 2 of Schedule 4A; or

(b) gives a false or inaccurate name or address in response to a requirement under that Article or that sub-paragraph,

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

Fixed penalties for certain offences

6.—(1) After Article 53 of the 1981 Order insert—

“53A. Schedule 4A (which makes provision in relation to fixed penalties for certain summary offences) shall have effect.”.

40 (2) After Schedule 4 of that Order insert—

“SCHEDULE 4A

FIXED PENALTY OFFENCES

1. In this Schedule—

“fixed penalty” shall be construed in accordance with paragraph 4;

“fixed penalty notice” means a notice offering an opportunity to
discharge any liability to conviction of the offence to which the
notice relates by payment of a fixed penalty in accordance with
this Schedule; 5

“fixed penalty offence” means an offence specified in an order made
by the Department for the purposes of this Schedule, being an
offence— 10

(a) created under any provision of this Order and punishable on
summary conviction; and

(b) committed after the coming into operation of Article 53A of
this Order. 15

2.—(1) Where an inspector finds a person on any occasion and has
reason to believe that on that occasion he is committing or has committed
a fixed penalty offence, the inspector may give that person a fixed penalty
notice in respect of that offence.

(2) If an inspector proposes to give a person a fixed penalty notice 20
under this paragraph, the inspector may require the person to give the
inspector his name and address.

(3) A person to whom a fixed penalty notice is given under this
paragraph in respect of a fixed penalty offence shall not be liable to be
convicted of that offence if the fixed penalty is paid in accordance with 25
paragraph 3 before the expiration of the period of 21 days from the date of
the notice or such longer period, if any, as may be specified in the notice.

(4) Where a person is given a fixed penalty notice under this paragraph
in respect of a fixed penalty offence, proceedings shall not be taken
against that person for that offence until the expiration of the period of 21 30
days from the date of the notice or such longer period, if any, as may have
been specified in the notice.

(5) A notice under this paragraph—

(a) shall be in such form as the Department may specify by order; and

(b) shall give such particulars of the circumstances alleged to 35
constitute the offence as are necessary for providing reasonable
information of the offence.

(6) A notice under this paragraph shall state—

(a) the period during which, by virtue of sub-paragraph (4),
proceedings will not be taken for the offence; 40

(b) the amount of the fixed penalty; and

(c) the person to whom and the address at which the fixed penalty
may be paid.

(7) In this Schedule “proceedings” means any criminal proceedings in respect of the act constituting the offence specified in the fixed penalty notice under this paragraph, and “convicted” shall be construed in like manner.

5 3.—(1) Payment of a fixed penalty shall be made to or at the office of the clerk of petty sessions specified in the fixed penalty notice, or to such other person or to or at such other office as the Department may by order direct.

10 (2) Sums paid by way of a fixed penalty for any fixed penalty offence shall be treated as if they were fines imposed on summary conviction of that offence.

15 (3) In any proceedings a certificate that payment of a fixed penalty was or was not made by a date specified in the certificate to or at the office of the appropriate clerk of petty sessions, or to such other person or to or at such other office as the Department has directed under sub-paragraph (1), shall, if the certificate purports to be signed by the clerk of petty sessions or such other person as the Department has directed under sub-paragraph (1), be sufficient evidence of the facts stated unless the contrary is proved.

20 (4) The Department may by order specify—
 (a) the duties under this Schedule of persons or offices specified by an order made under sub-paragraph (1); and
 (b) the information to be supplied to clerks of petty sessions and to such other persons or offices as may be specified in the order.

25 4. The fixed penalty for a fixed penalty offence shall be such amount as may be prescribed in relation to that offence by order of the Department.

5. The amount prescribed by order under paragraph 4 shall not be more than 3% of the maximum fine on summary conviction for the offence in question.

30 6. In any proceedings for an offence which is a fixed penalty offence, no reference shall be made to the giving of any notice under this Schedule, or to the payment or non-payment of a fixed penalty under this Schedule, unless in the course of the proceedings, or in some document which is before the court in connection with the proceedings, reference has been made by or on behalf of the accused to the giving of such notice
35 or, as the case may be, to such payment or non-payment.”.

Prosecutions: time limit

7. In Article 55 of the 1981 Order (extension of time for bringing summary proceedings), in paragraph (1), for “six” substitute “twelve”.

General

40 **Biosecurity guidance**

8.—(1) After Article 4 of the 1981 Order insert—

“Biosecurity guidance

4A.—(1) The Department shall prepare guidance on the appropriate biosecurity measures to be taken in relation to any disease specified by order of the Department.

(2) After preparing a draft of the guidance the Department— 5

(a) shall send a copy of the draft to such persons and organisations as it thinks are representative of those having an interest in biosecurity measures;

(b) shall consider any representations made to it about the draft by such persons and organisations; 10

(c) may amend the draft accordingly.

(3) After the Department has proceeded under paragraph (2) it shall publish the guidance in such manner as it thinks appropriate.

(4) The Department shall from time to time review the guidance and if it thinks it appropriate revise the guidance. 15

(5) Subject to paragraph (6), paragraphs (1) to (3) apply to a revision of the guidance as they apply to its preparation.

(6) If the Department thinks that it is necessary to revise the guidance urgently it may publish revised guidance without proceeding under paragraph (2). 20

(7) Biosecurity measures are measures taken to prevent the spread of causative agents of disease.

(8) In paragraph (7), “causative agent” includes any virus, bacterium and any other organism or infectious substance or particle which may cause or transmit disease. 25

(9) It is immaterial that anything done for the purposes of paragraphs (1) to (3) is done before the coming into operation of section 8 of the Diseases of Animals Act (Northern Ireland) 2009.

Biosecurity compliance

4B.—(1) If a person to whom paragraph (2) applies fails to comply with guidance which has been published under Article 4A(3) and has not been withdrawn, that person is not by reason only of that failure liable in any civil or criminal proceedings but the guidance is admissible in evidence in such proceedings and a court may take account of any failure to act in accordance with it in deciding any question in the proceedings. 30 35

(2) This paragraph applies to—

(a) any person having functions under this Order;

(b) any person who is the owner or occupier of premises on which animals or poultry are kept;

(c) any person who is the owner of, or has charge of, animals or poultry; 40

(d) any person who is under the direction or control of a person mentioned in sub-paragraphs (a) to (c).”.

(2) In Article 18 of the 1981 Order (general provisions relative to slaughter and compensation), in paragraph (6) at the end of sub-paragraph (c), add—

“or

- 5 (d) the owner or the person having charge of the animal or bird has failed to act in accordance with guidance which has been published under Article 4A(3) and has not been withdrawn, where that guidance relates to the disease necessitating the slaughter.”.

Power to regulate the supply of fodder

- 10 **9.** In Article 5 of the 1981 Order (prevention or checking of disease), in paragraph (1)(h), for the words “sale or use” substitute “sale, supply or use”.

Fees and expenses

10.—(1) In Article 5 of the 1981 Order (prevention or checking of disease), in paragraph (1), after sub-paragraph (k) insert—

- 15 “(kk) prescribe and regulate the circumstances in which expenses incurred by the Department may be recovered from any person who fails to comply with any provision of this Order or an order of the Department;”.

(2) In Article 50 of the 1981 Order (payment of fees and expenses), in paragraph (1)(a), for “such business” substitute “any appointment, certificate, declaration, licence, registration, approval or other such business”.

Deliberate infection

11.—(1) After Article 5 of the 1981 Order insert—

“Deliberate infection

- 25 5A.—(1) A person commits an offence if, without lawful authority or excuse (proof of which shall lie on him), he knowingly or recklessly does any act which causes or is intended to cause an animal or bird to be infected with a disease.

- 30 (2) A person commits an offence if, without lawful authority or excuse (proof of which shall lie on him), that person acquires or takes possession of an animal or bird which he knows, or ought reasonably to know, to be infected with a disease.

Deliberate infection: disqualification

5B.—(1) If a person is convicted of an offence under Article 5A the court may by order disqualify that person, for such period as it thinks fit, from keeping or dealing in—

- 35 (a) any animals or poultry, or
(b) any animals or poultry of a specified kind.

(2) The court may suspend the operation of the order—

- 40 (a) for such period as it thinks necessary to enable arrangements to be made for the keeping of any animals or poultry to which the disqualification relates;

- (b) pending an appeal.
- (3) A person who is disqualified under paragraph (1) may from time to time apply to the court which imposed the disqualification to remove it or vary it.
- (4) On an application under paragraph (3) the court may by order— 5
 - (a) refuse the application,
 - (b) remove the disqualification, or
 - (c) vary the disqualification to apply it only to such animals or poultry or such kind of animals or poultry as it specifies.
- (5) In considering an application under paragraph (3) the court may 10 have regard to—
 - (a) the nature of the offence in respect of which the disqualification was imposed;
 - (b) the character of the applicant;
 - (c) the conduct of the applicant since the disqualification was 15 imposed.
- (6) The first application under paragraph (3) must not be made before the end of the period of one year starting with the date the disqualification starts.
- (7) A further application shall not be made before the end of the period 20 of one year starting with the date of the court's last order.
- (8) For the purposes of this Article keeping or dealing in an animal or bird includes—
 - (a) having custody or control of an animal or bird;
 - (b) being concerned in the management or control of a body (whether 25 or not incorporated) whose activities include keeping or dealing in animals or poultry.”.
- (2) In Article 52 of the 1981 Order (offences), after paragraph (6) add—
 - “(7) A person guilty of an offence under Article 5A shall be liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding 30 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.”.
- Seizure and destruction of things liable to spread disease** 35
- 12.** In Article 6 of the 1981 Order (seizure and destruction of carcasses, etc. liable to spread disease)—
 - (a) in paragraph (1), for “or fertilisers” substitute “fertilisers, or any other thing, whether animate or inanimate,”;
 - (b) in paragraph (2), for “or fertilisers” substitute “fertilisers, or any other 40 thing”;

- (c) in paragraph (3), the words “and shall be calculated as if it was not affected with disease at that time” cease to have effect.

Control of vaccines

13. After Article 8 of the 1981 Order insert—

5 **“Control of vaccines**

8A.—(1) The Department may by order prohibit or regulate—

- (a) the manufacture, import, possession, sale or supply of such vaccines as may be specified in the order;
 - (b) the administration to any animal or bird of such vaccines as may be specified in the order.
- 10 (2) Without prejudice to paragraph (1), an order under that paragraph may—
- (a) specify the persons who may manufacture, import, possess, sell, or supply vaccines;
 - 15 (b) specify the persons who may administer vaccine to any animal or bird;
 - (c) provide for the issue of licences for the manufacture, import, possession, sale, supply or administration of vaccines, subject to such conditions as may be specified in the licences;
 - 20 (d) require any person—
 - (i) to keep such records and retain such documents as may be specified in the order;
 - (ii) to furnish to the Department such information and returns as may be so specified;
 - 25 (iii) to permit an inspector to inspect and take extracts from such records and documents;
 - (e) provide for the seizure, detention and disposal of any vaccine manufactured, imported, possessed, sold or supplied in contravention of the order;
 - 30 (f) provide for the seizure, detention and disposal of any animal or bird to which vaccine has been administered in contravention of the order.”.

Treatment of animals or poultry

35 **14.** For Article 11 of the 1981 Order (treatment of animals or poultry exposed to infection) substitute—

“Treatment of animals or poultry

11.—(1) For the purpose of controlling disease or preventing the spread of disease, the Department may cause such treatment as it considers necessary to be given to any animal or bird.

- 40 (2) In paragraph (1), “treatment” includes treatment with serum or vaccine, or with both serum and vaccine.

(3) The powers conferred by this Article shall be construed as extending to the taking of any action—

(a) which is required for enabling the appropriate treatment to be administered, or

(b) which is otherwise required in connection with that treatment.”. 5

Regulation of movement of animals and poultry

15. In Article 19 of the 1981 Order (regulation of movement of animals and poultry, etc.)—

(a) in paragraph (a), the words “diseased or suspected” cease to have effect;

(b) in paragraph (e), the words “newly purchased” cease to have effect. 10

Registration and approval of livestock dealers

16. After Article 19 of the 1981 Order insert—

“Registration and approval of livestock dealers

19A.—(1) The Department may by order—

(a) regulate the possession, purchase, sale or supply of animals or poultry by livestock dealers for the purpose of preventing the outbreak or spread of disease or for the purpose of preventing injury or suffering to animals or poultry; 15

(b) provide for the approval and registration of livestock dealers and premises owned or occupied by livestock dealers. 20

(2) In paragraph (1), “livestock dealer” means any person who—

(a) buys and sells animals or poultry commercially, either on his own behalf or on behalf of another;

(b) does not generally retain such animals or poultry in his ownership for a period of more than 30 days; and 25

(c) in the course of his business moves animals or poultry purchased by him from premises owned or occupied by him to premises not owned or occupied by him.”.

Export of animals and poultry

17. In Article 32 of the 1981 Order (export of animals and poultry), in paragraph (a), the words “to a member State” cease to have effect. 30

Records and returns

18. In Article 44 of the 1981 Order (records and returns), after “owner of” insert “, or person in charge of,”.

Inspection, etc., of imports 35

19.—(1) After Article 47 of the 1981 Order insert—

“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—
 - 5 (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
- 10 (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;
- 15 (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
- 20 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.”.

25 (2) In Article 29 of the 1981 Order (regulation of ports, aerodromes, etc.), in paragraph (2)—

- (a) in sub-paragraph (j), for the words “a landing place” substitute “a port, aerodrome or landing place”;
- (b) in sub-paragraph (m)—
 - 30 (i) for the words “seizure and detention” substitute “seizure, detention and disposal”;
 - (ii) the words “, by which disease may be introduced or spread” cease to have effect.

Power to inspect, cleanse and disinfect vehicles

35 **20.** After Article 48 of the 1981 Order insert—

“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—

- 40 (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)— 5
 - “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; 10
 - “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; 15
 - (d) a container or other structure designed or adapted to be carried by or on a vehicle.”. 25

Procedure for orders

- 21.** In Article 61(1) of the 1981 Order (orders)—
- (a) after “3(2),” insert “4A(1),”; 20
 - (b) after “8(1),” insert “8A(1),”; 25
 - (c) after “16(1A) or (2),” insert “16A(1) or (3), 19A(1), 32A, 32B(1), 32D(7), 32E(2), 32F(5), 32I(1),”; 30
 - (d) for “39(3) and 50(1)” substitute “39(3), 48A(2), 50(1), any order made under Schedule 4A,”. 35

Supplementary

Minor and consequential amendments and repeals

- 22.**—(1) Schedule 2 (which makes minor and consequential amendments) has effect.
- (2) The statutory provisions specified in Schedule 3 are repealed to the extent specified there. 30

Commencement

- 23.**—(1) This Act, except this section and section 24, shall come into operation on such day or days as the Department of Agriculture and Rural Development may by order appoint. 35
- (2) An order made under subsection (1) may contain such transitional provisions as appear to the Department of Agriculture and Rural Development to be necessary or expedient in connection with the provisions brought into operation by the order.

Short title

24. This Act may be cited as the Diseases of Animals Act (Northern Ireland) 2009.

SCHEDULES

Section 3.

SCHEDULE 1

TRANSMISSIBLE SPONGIFORM ENCEPHALOPATHIES

In the 1981 Order, insert the following Part after Part 2—

“PART 2A 5

TRANSMISSIBLE SPONGIFORM ENCEPHALOPATHIES

Livestock genotypes

Power of Department to specify susceptible livestock genotypes

32A. Where, in the opinion of the Department, a livestock genotype is more susceptible than other livestock genotypes— 10

- (a) to infection by a form of TSE, or
- (b) to becoming a carrier of a form of TSE,

the Department may by order specify, for the purposes of this Part, the livestock genotype and, if it considers it appropriate, the form of TSE concerned. 15

Identification of genetically susceptible livestock

32B.—(1) The Department may by order make provision requiring the keeper of any livestock—

- (a) to allow an inspector to take a sample from it, for the purpose of establishing its genotype; 20
- (b) to allow an inspector to administer or otherwise attach to it an identification device;
- (c) where the genotype of the livestock has been established (whether or not as a result of the exercise of powers conferred by this Part) to keep a record of its genotype. 25

(2) An order under paragraph (1) may, in particular—

- (a) provide that only identification devices of a kind specified in the order may be administered or attached;
- (b) make provision as to the assistance which an inspector may require the keeper to give; 30
- (c) make provision with respect to the testing of samples;
- (d) require the issuing and keeping of certificates recording the genotypes of livestock.

Restriction notices

Restrictions on breeding

32C.—(1) This Article applies where it appears to the Department that livestock is of a genotype specified in an order under Article 32A.

5 (2) The Department shall consider whether there are exceptional circumstances that justify allowing the livestock to be used for breeding.

 (3) If it appears to the Department that allowing the livestock, or its semen, eggs or embryos, to be used for, or in connection with, breeding would not be justified, it shall give a notice (in this Part referred to as a
10 “restriction notice”) to the keeper of the livestock.

 (4) A restriction notice—

 (a) may be made so as to apply to more than one creature, and

 (b) may describe the livestock to which it applies in such a way as the Department considers appropriate, and

15 (c) shall specify the restrictions and requirements provided for in paragraphs (7) to (10).

 (5) If the keeper of the livestock is not the same person as its owner, the Department may give a separate restriction notice to the owner.

20 (6) If the keeper of the livestock is not the same person as the person in possession of the semen, eggs or embryos of the livestock, the Department may give a separate restriction notice to the person in possession of the semen, eggs or embryos.

 (7) A person to whom a restriction notice is given shall not—

25 (a) use livestock to which the notice applies, or its semen, eggs or embryos, for purposes of or in connection with breeding, or

 (b) cause or permit such livestock or such semen, eggs or embryos to be used by another person for those purposes.

30 (8) A person to whom a restriction notice is given shall arrange for any semen, egg or embryo which has at any time been taken from livestock to which the notice applies, and which is in the person’s possession or under the person’s control, to be destroyed within such period, of not less than 28 days, as may be specified in the notice.

 (9) A person to whom a restriction notice is given shall arrange for each creature to which the notice applies—

35 (a) to be castrated or (as appropriate) sterilised within such period, of not less than 28 days, as may be specified in the notice, or

 (b) to be slaughtered before the end of the period of 7 months beginning with that date.

40 (10) A person to whom a restriction notice is given shall comply with any restrictions on the movement of any livestock to which the notice applies as may be specified in the notice.

 (11) For the purposes of paragraph (2) exceptional circumstances include circumstances in which the imposition in relation to the livestock

SCH. 1

of the restrictions and requirements of paragraphs (7) to (10) is likely to cause the extinction of the breed or type of which the livestock is a member.

Appeals

32D.—(1) A person to whom a restriction notice has been given may appeal against the notice to a person appointed by the Department for the purpose of dealing with appeals under this Part (“an assessor”). 5

(2) Subject to paragraph (3), an appeal may not be brought after the end of the period of 21 days beginning with the date on which the notice concerned was given to the appellant. 10

(3) The Department may, in a particular case, extend the period of 21 days if it considers that there are exceptional circumstances justifying the extension.

(4) If the restriction notice applies to more than one creature, the appeal may be limited to the creature or creatures specified by the appellant. 15

(5) If the assessor allows the appeal, in whole or in part, the assessor may—

- (a) revoke the notice,
- (b) revoke the notice so far as it applies to one or more creatures specified by the assessor, or 20
- (c) direct that a further test is carried out in relation to such livestock as may be specified by the assessor.

(6) A direction under paragraph (5)(c) may require—

- (a) a further sample to be taken,
- (b) the further test to be carried out by a different testing laboratory. 25

(7) The Department may by order supplement the provisions of this Article.

(8) An order under paragraph (7) may, in particular, make provision—

- (a) as to the procedure to be followed on an appeal,
- (b) extending the period mentioned in Article 32C(9)(a) or (b) where an appeal is brought against a restriction notice, 30
- (c) requiring the appellant to meet the reasonable costs of, and in connection with, the taking of a further sample or the carrying out of a further test as a result of a direction under paragraph (5)(c), and 35
- (d) as to the recovery of any such costs.

(9) The revocation of a restriction notice (in whole or in part) by an assessor does not prevent the issue of another restriction notice, following the testing of a further sample.

Regulation of movement of livestock

Regulation of movement of susceptible livestock

32E.—(1) This Article applies to livestock—

- (a) whose genotype is specified by virtue of Article 32A; and
- 5 (b) in relation to whose genotype the form of TSE concerned is so specified.

(2) The Department may by order—

- (a) prohibit or regulate the movement of any livestock to which this Article applies or the carcasses of any such livestock;
- 10 (b) regulate the isolation of any livestock to which this Article applies;
- (c) regulate the issue and production of licences in respect of the movement of livestock to which this Article applies.

Enforcement

15 **Department's powers of enforcement**

32F.—(1) This Article applies if the Department is satisfied that a person to whom a restriction notice has been given has failed to comply with one or more of the restrictions or requirements imposed on that person by Article 32C.

20 (2) But it does not apply in relation to any livestock—

- (a) which is the subject of an appeal under Article 32D which has not been disposed of, or
- (b) which, as the result of a successful appeal, is no longer subject to the restriction notice.

25 (3) The Department may take such reasonable steps as it considers appropriate to secure that the failure is remedied.

(4) In particular, the Department may—

- (a) cause to be destroyed any semen, egg or embryo which has not been destroyed as required by Article 32C(8);
- 30 (b) cause to be castrated (or, as appropriate, sterilised) or slaughtered any livestock—
 - (i) which is the subject of the notice, but
 - (ii) which has neither been castrated (or, as appropriate, sterilised) within the period mentioned in Article 32C(9)(a) nor
 - 35 slaughtered within the period mentioned in Article 32C(9)(b).

(5) The Department may by order make provision supplementing the provisions of this Article.

SCH. 1

Offences

32G.—(1) A person to whom a restriction notice is given commits an offence (whether or not the notice is the subject of an appeal) if that person—

- (a) sells (or otherwise transfers to another person) livestock to which the notice applies, or any of its semen, eggs or embryos; 5
- (b) fails, without reasonable excuse (proof of which lies on that person), to comply with any of the restrictions or requirements specified in the notice.

(2) Any other person commits an offence if he uses any semen, egg or embryo which he knows, or has reasonable cause to believe, has been taken from livestock which is the subject of a restriction notice. 10

Powers of slaughter

Powers of slaughter: TSE

32H.—(1) With a view to— 15

- (a) preventing the spread of;
- (b) controlling; or
- (c) eliminating,

any form of TSE, the Department may, if it thinks fit, cause any livestock to which this paragraph applies to be slaughtered. 20

(2) Paragraph (1) applies to livestock—

- (a) whose genotype is specified by virtue of Article 32A; and
- (b) in relation to whose genotype the form of TSE concerned is so specified.

(3) Paragraph (1) also applies to livestock whose genotype is not ascertained because— 25

- (a) it is not reasonable in the circumstances, by reason of urgency or otherwise, to seek to ascertain the genotype; or
- (b) the genotype cannot, in the absence for the time being of scientific knowledge, established method or otherwise, reasonably be ascertained. 30

Compensation

32I.—(1) The Department shall by order make provision for compensation in respect of—

- (a) any livestock slaughtered, or other thing destroyed, in accordance with a restriction notice; 35
- (b) any livestock slaughtered, or other thing destroyed, by virtue of Article 32F;
- (c) any livestock slaughtered in accordance with Article 32H.

(2) Without prejudice to the generality of paragraph (1), an order under that paragraph may do either or both of the following— 40

- (a) require the Department to pay compensation not exceeding such amount as may be specified in the order;
- (b) provide for the calculation of compensation using such scales or such other basis of calculation as may be so specified.

5 **Interpretation**

32J. In this Part—

“breeding” includes the placing in any creature of an embryo which has been created otherwise than by fertilisation;

“keeper”, in relation to livestock, includes an owner of the livestock;

10 “livestock” means—

(a) any creature which is kept, fattened or bred for the production of food, wool, skin or fur;

(b) any creature, other than a dog, which is kept for use in the farming of land; and

15 (c) any equine animal;

“TSE” means transmissible spongiform encephalopathy.”.

SCHEDULE 2

Section 22(1).

MINOR AND CONSEQUENTIAL AMENDMENTS OF THE 1981 ORDER

1. In paragraph (2) of Article 2 (interpretation)—

20 (a) after “eggs” insert “, except in Part 2A,”;

(b) after the definition of “poultry”, insert the following definition—

““premises” includes—

(a) any land, building, shed, pen or other place;

(b) any receptacle or container;

25 (c) any ship, vessel, boat, aircraft, hovercraft or vehicle of any other description;”.

2. In paragraph (1) of Article 33 (possession or administration of scheduled substances) for “paragraph (2)” substitute “Article 11 and paragraph (2)”.

30 3. In paragraph (3) of Article 52 (offences) for “paragraphs (5) and (6)” substitute “paragraphs (5) to (8)”.

SCHEDULE 3

Section 22(2).

REPEALS

	Short Title	Extent of repeal
35	Diseases of Animals (Northern Ireland) Order 1981 (NI 22).	In Article 6(3), the words “and shall be calculated as if it was not affected with disease at that time”.

SCH. 3

Short Title	Extent of repeal	
	In Article 19(a), the words “diseased or suspected”.	
	In Article 19(e), the words “newly purchased”.	5
	In Article 29(2)(m), the words “, by which disease may be introduced or spread”.	
	In Article 32(a), the words “to a member State”.	
	In Article 46(3)(c), the words “, vessel or aircraft”.	10