STATUTORY RULES OF NORTHERN IRELAND

2004 No. 363

ANIMALS

Tuberculosis Control (Amendment) Order (Northern Ireland) 2004

Made - - - -	*26th August 2004*
Coming into operation	*1st October 2004*

The Department of Agriculture and Rural Development(**1**), in exercise of the powers conferred on it by Articles 5(1), 10(6), 18(7), 19, 44, 46(7A) and 60(1) of, and paragraph 4 of Part I and paragraph 4 of Part II of Schedule 2 to, the Diseases of Animals (Northern Ireland) Order 1981(**2**) and of every power enabling it in that behalf, hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the Tuberculosis Control (Amendment) Order (Northern Ireland) 2004 and shall come into operation on 1st October 2004.

Amendment of the Tuberculosis Control Order (Northern Ireland) 1999

2. The Tuberculosis Control Order (Northern Ireland) 1999(**3**) shall be amended in accordance with Articles 3 to 9.

Power to take samples

3. After Article 4 there shall be inserted the following Article –

"**Power to take samples**

4A. The Department may examine any animal, take such samples and apply such tests as it considers necessary for the purpose of controlling disease.".

(**1**) The Department of Agriculture for Northern Ireland was renamed the Department of Agriculture and Rural Development by Article 3(4) of the Departments Order 1999 (S.I. 1999/283 (N.I. 1))
(**2**) S.I. 1981/1115 (N.I. 22) as amended by S.I. 1984/702 (N.I. 2) Article 17, S.I. 1994/1891 (N.I. 6) Articles 20 and 23 and S.R. 1999 No. 204
(**3**) S.R. 1999 No. 263

Restriction on movement of animals

4. For paragraph (3) of Article 5 there shall be substituted the following paragraph –

"(3) If a person refuses to permit or otherwise delays or impedes the examination, sampling or testing of any animal, or refuses or neglects to comply with any requirement imposed upon him in connection with such examination, sampling or testing, under this Order or the Scheme, the Department may, by notice –

(a) require that person to detain any animal on the holding on which it is kept, or on such part of the holding as may be specified in the notice;

(b) prohibit the movement of any animal to or from the holding except under and in accordance with the conditions of a licence issued by the Department;

(c) require that person to have such animal subjected to an official test at his own expense and within such time limit, as shall be specified in the notice.".

Contact with animals on adjoining land

5. After Article 6 there shall be inserted the following Article –

"**Contact with animals on adjoining land**

6A.—(1) The keeper of a herd shall maintain the fences dividing his holding from adjoining land in such condition as to prevent –

(a) contact of his herd with animals on adjoining land; and

(b) his herd from straying from the holding.

(2) Where a reactor is found in any herd, the keeper of the herd shall take all practical precautions to prevent the infection of any animals kept on the adjoining land by contact with animals on his holding.".

Power to slaughter

6. For Article 10 there shall be substituted the following Article –

"**Power to slaughter**

10.—(1) Subject to paragraphs (2) and (3), the Department shall slaughter or cause to be slaughtered any reactor and may slaughter or cause to be slaughtered any suspected animal or other animal which is or has been in contact with a reactor or which in the opinion of a veterinary inspector has been in any way exposed to a significant risk of infection with disease.

(2) Where the Department is satisfied that an animal should be slaughtered in accordance with paragraph (1), it shall serve a notice on the keeper of the animal stating that the Department proposes to slaughter the animal and requiring the keeper, pending such slaughter, to detain the animal on the premises specified in the notice and isolate it from other animals and to comply with such other requirements as may be specified in the notice.

(3) Where the Department considers that any animal in respect of which a notice has been served under paragraph (2) ought not to be slaughtered it shall serve a notice on the keeper of the animal stating that fact and revoking the notice under that paragraph.

(4) A notice served under paragraph (2) shall specify the identification number, sex, colour, breed and date of birth of the animal to which it relates.

(5) The keeper of an animal in respect of which there is a notice under paragraph (2) in force shall comply with the requirements of that notice and shall –

(a) not move or cause or permit to be moved such animal from the premises specified in the notice under paragraph (2), except under and in accordance with the conditions of a licence granted by the Department;

(b) maintain, at his own expense, such animal until it is removed for slaughter by or on behalf of the Department;

(c) provide facilities that in the opinion of the Department are adequate to ensure the safety of any person involved in determining the market value of the animal or arranging its removal for slaughter;

(d) collect, pen, restrain or otherwise secure and present the animal, in such manner and at such time as the Department shall require, for the purpose of determining its market value or arranging its removal for slaughter; and

(e) make clean water available for the cleansing and disinfection of clothing and equipment used by any person in connection with the determination of the market value of the animal.

(6) The owner of any animal in respect of which there is a notice under paragraph (2) in force shall not slaughter or cause to be slaughtered that animal except under and in accordance with the conditions of a licence issued by the Department for that purpose and where he does so Articles 11 and 11A shall not have effect in relation to that animal.".

Valuation and compensation

7. In Article 11 for paragraph (2) to the end there shall be substituted the following paragraphs –

"(2) For the purposes of this Order the market value of an animal means the price which might reasonably have been obtained for it, at the time of valuation in accordance with this Article or Article 11A, from a purchaser in the market if it had been free from disease.

(3) Upon service of a notice in respect of an animal under Article 10(2), the Department shall (unless the notice has previously been revoked) make an initial assessment of the market value of the animal for the purposes of paragraph (1) and shall notify the owner of that assessment.

(4) Subject to the following paragraphs and Article 11A, the market value of an animal which the Department proposes to cause to be slaughtered shall, for the purposes of compensation under paragraph (1), be determined before slaughter by agreement, between the Department and the owner of the animal, if the agreement is reached within 3 working days of the Department informing the owner of its initial assessment of the market value under paragraph (3).

(5) If the Department and the owner of an animal fail to agree the market value of the animal in accordance with paragraph (4), the Department shall submit a list of independent valuers, approved by it for the purposes of this Article, to the owner and, within 2 working days of receiving this list, the owner shall –

(a) nominate a valuer (hereinafter referred to as the "nominated valuer") from the list; and

(b) notify the Department of the name and address of the nominated valuer.

(6) Within 8 working days of the owner of the animal notifying the Department of the name and address of the nominated valuer in accordance with paragraph (5) –