



STATUTORY INSTRUMENTS.

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EUROPEAN COMMUNITIES (NEWCASTLE DISEASE)
REGULATIONS 2012

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I, SIMON COVENEY, Minister for Agriculture, Food and the Marine, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), for the purpose of giving effect to Council Directive No. 92/66/EEC of 14 July 1992¹ (as amended by Council Regulation (EC) No. 806/2003 of 14 April 2003², Council Directive No. 2006/104/EC of 20 November 2006³ and Council Directive No. 2008/73/EC of 15 July 2008⁴), hereby make the following regulations:

Citation

1. These Regulations may be cited as the European Communities (Newcastle Disease) Regulations 2012.

Interpretation

2. (1) In these Regulations—

“approved disinfectant” means—

- (a) a biocidal product which has been notified, authorised or registered for placing on the market and used under the European Communities (Authorization, Placing on the Market, Use and Control of Biocidal Products) Regulations 2001 (S.I. No. 625 of 2001),
- (b) is used for the prevention and control of Newcastle disease, and
- (c) is published by the Minister in a manner that he or she considers appropriate;

“authorised officer” means—

- (a) an authorised officer within the meaning of section 17A (inserted by the Diseases of Animals (Amendment) Act 2001 (No. 3 of 2001)) of the Diseases of Animals Act 1966 (No. 6 of 1966),
- (b) a member of the Garda Síochána,
- (c) an officer of Customs and Excise, or
- (d) a person appointed under Regulation 20;

¹O.J. L 260 of 5.9.1992, p. 1.

²O.J. L 122 of 16.5.2003, p. 1.

³O.J. L 363 of 20.12.2006, p. 352.

⁴O.J. L 219 of 14.8.2008, p.40

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 2nd March, 2012.*

“Minister” means Minister for Agriculture, Food and the Marine;

“Newcastle disease Directive” means Council Directive No. 92/66/EEC of 14 July 1992 (as amended by Council Regulation (EC) No. 806/2003 of 14 April 2003, Council Directive No. 2006/104/EC of 20 November 2006 and Council Directive No. 2008/73/EC of 15 July 2008);

“premises” includes a pigeon house and land (whether with or without buildings) other than holdings.

(2) A word or expression that is used in these Regulations and is also used in the Newcastle disease Directive has, in these Regulations, the same meaning as it has in the Newcastle disease Directive.

(3) A reference to an Article means a reference to an Article in the Newcastle disease Directive.

Notification of Newcastle disease

3. A person in possession of or in control of poultry, racing pigeons or other birds kept in captivity and any other person who, by reason of an examination, laboratory test result or otherwise, is aware or suspects or who should reasonably be aware or suspect that poultry, racing pigeons or other birds kept in captivity are or may be affected with Newcastle disease or Newcastle disease virus shall immediately notify the Minister of the fact or suspicion by contacting the Department of Agriculture, Food and the Marine.

Suspected Newcastle disease outbreak

4. (1) An official veterinarian shall declare by notice a holding or premises to be a suspected Newcastle disease outbreak holding or premises (“suspect holding” or “suspect premises”) where—

- (a) there is a suspected outbreak of Newcastle disease on a holding or premises, or
- (b) there is suspected contamination by Newcastle disease on a holding or premises.

(2) A person who owns or controls poultry, racing pigeons or other birds kept in captivity on a suspect holding or premises shall—

- (a) assist an authorised officer in the examination of and the taking of samples from poultry, racing pigeons or other birds kept in captivity,
- (b) co-operate with an authorised officer in taking a census of all categories of poultry, racing pigeons and other birds kept in captivity on the suspect holding or premises and in recording, in respect of each category of poultry, racing pigeons and other birds kept in captivity, the number of birds which—
 - (i) have died,

- (ii) show clinical signs of Newcastle disease, and
 - (iii) show no clinical signs of Newcastle disease,
 - (c) keep the census referred to in paragraph (b) up to date and provide information to an authorised officer relating to birds born or dying during the period of suspicion,
- (3) ensure that—
- (i) no poultry, racing pigeons or other birds kept in captivity enter or leave the holding,
 - (ii) all poultry, racing pigeons and other birds kept in captivity on the suspect holding or suspect premises are kept in their living quarters or another place where they can be isolated, and
 - (iii) appropriate disinfection facilities are placed at the entrances and exits of buildings or places housing poultry, racing pigeons and other birds kept in captivity and of the suspect holding or premises itself.
- (4) An authorised officer may give a direction in respect of any or all of the measures referred to in paragraphs (2) or (3).

Movements onto and off suspect holding or suspect premises

5. (1) A person shall not move any of the following to or from a suspect holding or suspect premises other than in accordance with a direction of an authorised officer-

- (a) poultry, racing pigeons, other birds kept in captivity, animal or vehicle,
 - (b) meat, carcasses, animal feed, implements, waste, droppings, manure, litter or anything liable to transmit Newcastle disease,
 - (c) eggs.
- (2) A person may only move from or to a suspect holding under a direction from an authorised officer.
- (3) An authorised officer may, by notice, extend the measures in paragraphs (1) and (2) to other holdings where their location, configuration, or contacts with the suspect holding give reason to suspect possible contamination.
- (4) The measures in paragraphs (1), (2) and (3) shall remain in place until the suspicion of Newcastle disease has been ruled out by the official veterinarian.

Confirmation of outbreak of Newcastle disease in a holding

6. Where an outbreak of Newcastle disease is confirmed in poultry, racing pigeons or other birds kept in captivity on a holding, an official veterinarian shall declare by notice the holding to be a holding with a confirmed outbreak of Newcastle disease (“infected holding”).

Confirmation of outbreak of Newcastle disease on a premises

7. Where an outbreak of Newcastle disease or Newcastle disease virus is confirmed in racing pigeons or other birds kept in captivity on a premises, an official veterinarian shall declare by notice the premises to be a premises with a confirmed outbreak of Newcastle disease (“infected premises”).

Measures to be applied on infected holdings and infected premises

8. (1) Subject to paragraph (3), a person who owns or controls poultry, racing pigeons or other birds kept in captivity on an infected holding or an infected premises shall apply the following on that holding or premises—

- (a) the measures provided for in Regulations 4(2) and 5 (1) and (2),
- (b) all poultry, racing pigeons and other birds kept in captivity shall be killed without delay,
- (c) poultry, racing pigeons and other birds kept in captivity which have died and been killed and all eggs shall be destroyed,
- (d) any substance or waste such as animal feed, litter or manure liable to be contaminated shall be destroyed or treated in accordance with the instructions of an authorised officer,
- (e) the meat from poultry slaughtered during the presumed incubation period of disease shall wherever possible be traced and destroyed,
- (f) hatching eggs laid during the presumed incubation period of disease which have been moved from the holding shall be traced and destroyed,
- (g) poultry which have already hatched from eggs shall be placed under official supervision,
- (h) table eggs laid during the presumed incubation period of disease which have been moved from the holding shall, where possible, be traced and destroyed unless they have previously been properly disinfected.

(2) A person who owns or controls poultry, racing pigeons or other birds kept in captivity on an infected holding or an infected premises shall apply the following after the completion of the measures provided for in paragraph (1)(b), (c) and (d)—

- (a) the buildings used for housing poultry, racing pigeons or other birds kept in captivity, their surroundings and the vehicles used for their transportation, as well as all other buildings and equipment likely to be contaminated, shall be cleaned and disinfected in accordance with Regulation 10,
- (b) no poultry, racing pigeons or other birds kept in captivity shall be reintroduced to the infected holding until at least 21 days after the

completion of the cleansing and disinfection operations provided for in sub-paragraph (a).

(3) The Minister may, by notice, decide not to apply some or all of the provisions in paragraph 1 where—

- (a) the outbreak is confirmed in a hatchery;
- (b) the criteria set out in Article 5.3 of the Newcastle disease Directive are satisfied and the owner or person adheres to the conditions set out in that Article.
- (c) the criteria in Article 6 of the Newcastle disease Directive are satisfied in relation to a healthy flock, or
- (d) the outbreak occurs on an infected premises and the owner or the person in charge of the racing pigeons or other birds kept in captivity ensures—
 - (i) there is no movement of racing pigeons or other birds kept in captivity from or to the premises for at least 60 days after the last clinical signs of Newcastle disease, and
 - (ii) the destruction and treatment of any matter or waste likely to be contaminated and including any matter or waste accumulated in the 60 day period referred to in paragraph (1).

(4) The Minister may extend the measures in paragraphs (1) and (2) to other holdings should their location, their configuration, or contact with the holding where Newcastle disease has been confirmed give reason to suspect possible contamination.

(5) An authorised officer may issue a direction in respect of the measures in paragraphs (1) to (4).

(6) A person to whom a direction is issued under paragraph (5) shall comply with the direction.

Contact holdings or premises

9. (1) If an authorised officer has reason to suspect that poultry on any holding may have been contaminated as a result of the movement of persons, animals or vehicles or in any other way, he or she shall by notice place that holding under official control (“contact holding”) in accordance with Article 8 of the Newcastle disease Directive.

(2) A person shall not remove poultry from a contact holding.

(3) Notwithstanding paragraph (2), an authorised officer may by notice authorise the transport of poultry directly to a slaughterhouse for the purpose of immediate slaughter in accordance with Article 8 (3) of the Newcastle disease Directive.

(4) If an authorised officer has reason to suspect that a racing pigeon or a premises is contaminated with the Newcastle disease virus he or she shall declare by notice that premises to be a contact premises (“contact premises”).

(5) A person who own or controls a contact premises shall ensure all appropriate measures are taken to prevent the spread of Newcastle disease and shall not permit racing pigeons outside the contact premises for at least 21 days following a declaration under Regulation 4 (1).

Cleaning and disinfection

10. (1) A person shall carry out cleaning and disinfection operations in accordance with Article 11 and Annex II to the Newcastle disease Directive, under official supervision and in accordance with any direction given by an authorised officer.

(2) A person shall only use an approved disinfectant to carry out cleaning and disinfection operations referred to in paragraph (1).

Establishment of protection and surveillance zones

11. (1) If an outbreak of Newcastle disease is confirmed in poultry, the Minister shall, by notice, establish around the infected area—

(a) a zone based on a minimum radius of 3 kilometres (“protection zone”), and

(b) a zone based on a minimum radius of 10 kilometres, including the protection zone (“surveillance zone”).

(2) If an outbreak of Newcastle disease or Newcastle disease virus is confirmed in racing pigeons or other birds kept in captivity, the Minister may, by notice, establish around the infected holding or an infected premises a protection zone and a surveillance zone at whatever radius the Minister considers appropriate.

(3) A holding which is partly in a surveillance zone and partly in a protection zone is considered to be in a protection zone.

(4) Other than a holding to which paragraph (3) refers, a holding which is partly in a surveillance zone is considered to be wholly in the surveillance zone.

(5) Where a protection or surveillance zone is established by the competent authorities in Northern Ireland in that jurisdiction extends to part of the territory of the State, the Minister shall establish such a zone in that part of the State and the measures provided for in these Regulations for such zones must be applied to the areas, holdings and premises within the zones so established.

(6) A person who owns or controls poultry, racing pigeons or other birds kept in captivity in a protection zone shall cooperate with the implementation of the measures set out in Article 9.2 of the Newcastle disease Directive.

(7) A person who owns or controls poultry, racing pigeons or other birds kept in captivity in a surveillance zone shall cooperate with the implementation of the measures set out in Article 9.4 of the Newcastle disease Directive.

(8) A person shall not hold fairs, markets, shows or other gatherings of poultry, racing pigeons or other birds kept in captivity in a protection zone or surveillance zone.

(9) A person shall not bring poultry, racing pigeons or other birds kept in captivity to a fair, market, show or other gathering in a protection zone or surveillance zone.

(10) The Minister may, by notice, vary, alter or revoke any zone established under paragraphs (1) or (2).

Transit through protection zone or surveillance zones

12. A person who owns or is in charge of poultry, racing pigeons or other birds kept in captivity shall not permit such poultry, racing pigeons or other birds kept in captivity to transit a protection zone or surveillance zone except in accordance with a licence issue by the Minister

Pigeons racing and training

13. Where an outbreak of Newcastle disease has been confirmed in poultry, racing pigeons or other birds kept in captivity, the Minister may, by notice, prohibit the racing or training of racing pigeons other than in accordance with a licence issued by the Minister.

Vaccination

14. (1) The Minister may by notice (“vaccination notice”) direct a person who owns or is in charge of poultry, racing pigeons or other birds kept in captivity to vaccinate such poultry, racing pigeons or other birds kept in captivity in such circumstances and under such conditions as the Minister considers necessary.

(2) A person shall comply with a vaccination notice or a condition of a vaccination notice.

Vaccination of racing pigeons

15. (1) Notwithstanding Regulation 14, a person who owns or keeps a racing pigeon shall ensure that the racing pigeon has been vaccinated against paramyxovirus 1 with an immunological animal remedy which is the subject of an animal remedies authorisation for that purpose within the meaning of Regulation 2 of the European Communities (Animal Remedies) (No 2) Regulations 2007 (S.I. No. 786 of 2007).

(2) A person who organises a show or race involving racing pigeons which takes place wholly or partly in the State shall ensure that all such racing pigeons entered for the race or show have been vaccinated in accordance with paragraph (1).

(3) A person who owns or keeps a racing pigeon shall ensure that he or she maintains a record for one year of all racing pigeons vaccinated in accordance with paragraph (1).

Compensation

16. (1) The Minister may pay compensation for poultry, meat of poultry, eggs or animal feed destroyed under Regulation 8 including poultry that dies before being killed, slaughtered or destroyed.

(2) Compensation shall not exceed the open market value of poultry, meat of poultry, eggs or animal feed as if not affected with Newcastle disease.

(3) If a person is convicted of an offence under these Regulations, as a statutory consequence of conviction, he or she is not entitled to compensation in respect of the poultry, meat of poultry, eggs or animal feed.

(4) The Minister may postpone consideration or determination of an application for compensation pending the institution or determination of a prosecution for an offence under these Regulations in relation to poultry, meat of poultry, eggs or animal feed.

(5) In the interest of controlling Newcastle disease, minimising the risk of Newcastle disease and curtailing the spread of Newcastle disease, the determination of compensation or ownership of poultry, meat of poultry, eggs or animal feed shall not delay the killing, slaughter, destruction or disposal of the poultry, meat of poultry, eggs or animal feed which shall proceed under the direction of an authorised officer prior to the determination.

Valuers

17. (1) The Minister may appoint such and so many persons who, in his or her opinion, have experience in valuing poultry, meat of poultry, eggs or animal feed or knowledge of the current value of poultry, meat of poultry, eggs or animal feed to carry out valuations of poultry, meat of poultry, eggs or animal feed for the purposes of assessing compensation (“valuer”).

(2) An officer of the Minister may furnish a valuer with a warrant of his or her appointment and, if requested by a person affected, the valuer shall produce the warrant for inspection.

(3) The owner or person in charge of poultry, meat of poultry, eggs or animal feed subject to a claim for compensation under Regulation 16, his or her employees, servants or agents shall give all assistance required and co-operate with a valuer or a person accompanying a valuer.

(4) A valuer or an arbitrator appointed under Regulation 17 shall not act in a specific case if he or she considers that there is a conflict of interest, or the person seeking compensation—

(a) is a member of the valuer’s or arbitrator’s family or other relative,

- (b) is a person with whom the valuer or arbitrator has a business relationship, or
- (c) is a person with whom the valuer or arbitrator has, or has had, a social relationship, the nature of which may call into question the valuer's or arbitrator's independence or objectivity.

(5) Subject to paragraph (9), a valuer or arbitrator is independent in the exercise of his or her functions.

(6) If a valuer (including a valuer to whom paragraph (8) refers) values poultry, meat of poultry, eggs or animal feed he or she shall immediately send a written report, in a form that the Minister may determine, to the owner and the Minister.

(7) If the owner of poultry, meat of poultry, eggs or animal feed or the Minister is dissatisfied with the determination of a valuer, he or she may within 7 days of the date of the report referred to in paragraph (6), request a second valuation.

(8) If a person requests a second valuation under paragraph (7), the valuation shall be carried out by a valuer chosen by the Minister.

(9) The Minister may issue guidelines, including guidelines relating to the maximum compensation payable, relating to valuations and a valuer or an arbitrator appointed under Regulation 18 shall have regard to the guidelines.

Arbitration

18. (1) If the owner of poultry, meat of poultry, eggs or animal feed, or the Minister is dissatisfied with the determination of a valuer under Regulation 17(7), he or she may, within 7 days of the date of the valuer's report, request that the matter be settled by arbitration.

(2) An arbitrator shall be chosen by the person seeking compensation from a list of at least three persons furnished to him or her by the Minister.

(3) The Arbitration Act 2010 (No. 1 of 2010) applies to arbitration under this Regulation.

(4) The determination of an arbitrator is binding on both parties save that, on a point of law, either party may appeal to the High Court.

Abatement of compensation

19. The Minister may reduce or refuse to pay an amount of compensation established under these Regulations, if in his or her opinion-

- (a) the applicant failed to take reasonable measures to alleviate the risk or spread of disease,
- (b) the applicant failed to take appropriate (if any) bio-security measures including measures prescribed in an Order or specified in a notice under the Diseases of Animals Act 1966 (No. 6 of 1966),

- (c) the applicant has failed to comply, in a material way, with a relevant code of practice,
- (d) the applicant has obstructed or impeded, or failed to give assistance to an authorised officer, valuer or arbitrator,
- (e) the applicant is not the owner of poultry, meat of poultry, eggs or animal feed to which the application relates,
- (f) the applicant in making an application for compensation, fails to give information required or gives information that is false or misleading in a particular respect,
- (g) the applicant has contravened the Regulations, or
- (h) the poultry, meat of poultry, eggs or animal feed to which an application for compensation relates has been imported, sold, supplied, moved or otherwise dealt with in contravention of these Regulations.

Appointment of authorised officers

20. (1) The Minister may, by instrument in writing, appoint such and so many persons as he or she thinks fit to be authorised officers for the purposes of some or all of the functions of an authorised officer as may be specified in the instrument.

(2) The Minister may at any time terminate the appointment of an authorised officer appointed by him or her under paragraph (1) whether or not the appointment was for a fixed period.

(3) An appointment as an authorised officer under paragraph (1) ceases—

- (a) if it is terminated pursuant to paragraph (2),
- (b) if it is for a fixed period, on the expiry of that period, or
- (c) if the person appointed is an officer of the Minister upon the person ceasing to be such an officer.

(4) Nothing in paragraph (3) is to be construed so as to prevent the Minister from reappointing as an authorised officer a person who ceased to be an authorised officer by virtue of that paragraph.

(5) An authorised officer (other than a member of the Garda Síochána or an officer of Customs and Excise) shall—

- (a) be furnished with a warrant of his or her appointment as an authorised officer, and
- (b) when exercising a function as an authorised officer and if requested by a person affected, produce his or her warrant card or evidence that he or she is appointed as an authorised officer to the person.

(6) The Minister may reserve the exercise of any function conferred on an authorised officer under these Regulations to a particular authorised officer or to an authorised officer of a particular class or description.

Functions of authorised officer

21. (1) Without prejudice to paragraphs (2) and (3), an authorised officer may enter a premises or holding on which poultry, racing pigeons or other birds kept in captivity are kept for the purpose of monitoring the risk or spread of Newcastle disease or to carry out surveillance programmes for the detection of Newcastle disease.

(2) If an authorised officer has reasonable cause to suspect that—

- (a) poultry, racing pigeons or other birds kept in captivity, carcass, the product or by-product of poultry, animal feed or a vehicle or trailer used in connection with the transport of poultry is present, has been present or may be present on a premises or holding,
- (b) poultry, racing pigeons or other birds kept in captivity, carcass or the product or by-product of poultry or animal feed is or has been kept, processed, stored or otherwise dealt with on a premises or holding,
- (c) equipment, plant or machinery used in connection with poultry, racing pigeons or other birds kept in captivity, carcass or the product or by-product of poultry has been, is or may be on a premises or holding,
- (d) Newcastle disease is or may be present on a premises or holding, or
- (e) a document relating to a thing referred to in paragraphs (a), (b), (c) or (d) is present, was present or may be present on a premises or holding,

the authorised officer may enter the premises or holding and he or she may—

- (i) search the premises or holding,
- (ii) stop a person, vehicle, vessel or container,
- (iii) board and search a vehicle, vessel or container,
- (iv) examine poultry, racing pigeons or other birds kept in captivity, carcass, the product or by-product of poultry, animal feed, vehicle, vessel, container, equipment, machinery or other thing,
- (v) take, without payment, samples of poultry, racing pigeons or other birds kept in captivity, carcass, the product or by-product of poultry, or other thing or an article, substance or liquid as he or she may reasonably require and carry out or cause to be carried out on a sample such tests, analyses, examinations or inspections as he or she considers necessary or expedient,

- (vi) require the production of a document (including a document in non-legible form in a legible form) or thing relating to poultry, racing pigeons or other birds kept in captivity, carcass, the product or by-product of poultry, animal feed, vehicle, vessel, container, equipment, machinery or other thing,
 - (vii) retain a document or thing (for so long as is necessary),
 - (viii) make a record using any means including writing, photography or video,
 - (ix) give a direction to, or request information of, a person regarding poultry, racing pigeons or other birds kept in captivity, carcass, the product or by-product of poultry, animal feed, vessel, vehicle, container, machinery, equipment, premises or other thing as he or she considers necessary,
 - (x) require the name and address of a person and the name and address of any other person including the owner of, or person to whom poultry, racing pigeons or other birds kept in captivity, carcass, the product or by-product of poultry or other thing is being delivered or who is causing it to be delivered,
 - (xi) require of a person the ownership, identity and origin of poultry, carcass, the product or by-product of poultry, animal feed, vessel, vehicle, container, equipment, machinery or other thing,
 - (xii) require a person in charge or control of a vessel, vehicle or container to refrain from moving it,
 - (xiii) carry out surveys or other investigations, or
 - (xiv) mark or otherwise identify poultry, carcass, the product or by-product of poultry, animal feed, vessel, vehicle, container, machinery, equipment or other thing or a sample taken under subparagraph (v).
- (3) If an authorised officer has reasonable cause to suspect that-
- (a) an offence is being or has been committed under these Regulations,
 - (b) evidence of an offence or contravention may be, is or has been on a premises-

the authorised officer may, in addition to the powers exercisable by him or her under paragraph (2)-

- (i) search a person, where the authorised officer considers it necessary,

- (ii) seize and detain, poultry, racing pigeons or other birds kept in captivity, carcass, the product or by-product of poultry, animal feed, vessel, vehicle, container, equipment, machinery or other thing, or
- (iii) dispose of, or require the owner or person in charge of or in possession of poultry, racing pigeons or other birds kept in captivity, carcass, the product or by-product of poultry or other thing to deal with or dispose of it (or any equipment, machinery, plant or other thing used in connection with, or that may have been in contact with, poultry, racing pigeons or other birds kept in captivity, carcass or the product or by-product of poultry) in a manner that the authorised officer sees fit.

(4) An authorised officer shall not enter, except with the consent of the occupier, a private dwelling, unless he or she has obtained a search warrant under Regulation 23 other than if he or she has reasonable cause to suspect that before a search warrant could be sought in relation to the dwelling anything to which paragraphs (2) or (3) relates is being or is likely to be destroyed or disposed of.

(5) An authorised officer may use reasonable force, if necessary, in exercise of his or her powers under this Regulation.

(6) An authorised officer, when exercising a power under this Regulation may be accompanied by other persons and may take with him or her, or those persons may take with them, any equipment or materials to assist the officer in the exercise of the power.

(7) An authorised officer is not liable in any proceedings for anything done in the purported exercise of his or her powers under this Regulation if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.

(8) Without prejudice to the generality of paragraph (2), a direction or requirement of an authorised officer may include conditions—

- (a) prohibiting, restricting or otherwise controlling the use, processing or movement of poultry, racing pigeons or other birds kept in captivity, carcass, the product or by-product of poultry, animal feed, vessel, vehicle, container, equipment, machinery or other thing as may be specified by the authorised officer,
- (b) requiring that the person to whom the direction is addressed to take the bio-security measures (including measures requiring the treatment of poultry, racing pigeons or other birds kept in captivity, or place with an approved disinfectant) specified by the authorised officer, or
- (c) requiring the owner or person in charge of a premises or holding to retain an animal, or introduce and retain an animal on the premises as a sentinel animal.

(9) If a member of An Garda Síochána has reasonable grounds to suspect that a person has committed an offence under these Regulations, the member may without warrant arrest the person.

(10) If in the course of exercising any powers under these Regulations an authorised officer or a member of An Garda Síochána finds or comes into possession of any thing that the officer or member believes to be evidence of an offence or suspected offence under these Regulations, it may be seized and retained for use in evidence in criminal proceedings.

(11) Nothing in these Regulations operates to prejudice a power conferred by another enactment to search, or to seize or detain property, which may be exercised by a member of An Garda Síochána or an officer of Customs and Excise.

Assistance to authorised officer

22. (1) A person who has poultry, racing pigeons or other birds kept in captivity, carcass, the product or by-product of poultry, animal feed, a vehicle, farm machinery, equipment or document relating to any thing to which these Regulations refer in his or her possession or under his or her control, that person, the servant, agent or employee of the person shall give any assistance requested to an authorised officer or person who accompanies an authorised officer.

(2) A person shall give any assistance requested to an authorised officer or person who accompanies an authorised officer for the purpose of undertaking an epidemiological, epizootiological, monitoring or surveillance programme for the purposes of the Newcastle disease Directive.

Search warrant

23. (1) If a judge of the District Court is satisfied by information on oath of an authorised officer that there are reasonable grounds for suspecting-

- (a) evidence of or relating to the commission or intended commission of an offence under these Regulations is to be found on a premises or holding,
- (b) there is or was poultry, racing pigeons or other birds kept in captivity, a carcass, the product or by-product of poultry or equipment or other thing made used or adapted for use (including manufacture and transport) in connection with poultry, carcass or the product or by-product of poultry on a premises or holding,
- (c) a document or other record related to a thing to which subparagraph (a) or (b) refers is or may be on a premises or holding,

the judge may issue a search warrant.

(2) A search warrant under this Regulation shall be expressed and operate to authorise a named authorised officer, accompanied by such authorised officers or other persons as the named authorised officer thinks necessary, at any time, within one month from the date of issue of the warrant, on production if so

requested of the warrant, to enter (if necessary by use of reasonable force) the premises or holding named in the warrant.

(3) If a premises or holding is entered under a search warrant, an authorised officer so entering may exercise all or any of the powers conferred on an authorised officer under these Regulations.

Obstruction, etc

24. A person shall not-

- (a) obstruct or impede an authorised officer (or a person who accompanies an authorised officer) in the exercise of his or her powers under Regulations 4, 5, 8, 9, 10, 21 or 22.
- (b) fail, without reasonable cause, to comply with a requirement or direction of an authorised officer under Regulations 4, 5, 8, or 10,
- (c) fail, without reasonable cause, to give assistance to an authorised officer in accordance with Regulation 4 or 22, or
- (d) in purporting to give information to an authorised officer for the performance of the officer's powers under Regulations 4, 8, 10, 21 or 23,
 - (i) make a statement that he or she knows to be false in a material particular or recklessly make a statement which is false in a material particular, or
 - (ii) fail to disclose a material particular.

Forgery

25. (1) A person shall not forge or utter knowing it to be forged—

- (a) a vaccination notice or record, or
- (b) a direction or requirement of an authorised officer under Regulations 4, 5, 8, 10, 21 or 23 (if the requirement or direction is in documentary form),

(hereafter in this Regulation referred to as a “forged document”).

(2) A person shall not alter with intent to defraud or deceive, or to utter knowing it to be so altered—

- (a) a movement notice or vaccination notice or record, or
- (b) a direction or requirement of an authorised officer under Regulation 4, 5, 8, 9, 10, 21 or 23 (if the requirement or direction is in documentary form),

(hereafter in this Regulation referred to as an “altered document”).

(3) A person shall not have, without lawful authority (the proof of which lies on him or her), in his or her possession or under his or her control a forged document or an altered document.

Offences, etc

26. (1) A person who contravenes or aids or abets a contravention of—

- (a) Regulations 3, 4(2),4(3), 5(1), 5(2), 8(1), 8(2), 9(2), 9(5), 10, 11(6), 11(7), 11(8), 11(9), 12, 14(2), 15, 22, 24, 25,
- (b) a notice,
- (c) a direction or requirement of an inspector or authorised officer under Regulation 4, 5, 8, 9, 10 or 21.

commits an offence and is liable—

- (i) on summary conviction, to a Class A fine, or to imprisonment for a term not exceeding 6 months, or to both, or
- (ii) on conviction on indictment, to a fine not exceeding €250,000, or to imprisonment for a term not exceeding 12 months, or to both.

(2) If an offence under these Regulations is committed by a body corporate and is proven to have been so committed with the consent, connivance or approval of or to have been attributable to the wilful neglect on the part of any person, being a director, manager, secretary or other officer of the body corporate or a person who was purported to act in any such capacity, that person, as well as the body corporate, commits offence and is liable to be proceeded against and punished as if he or she is guilty of the offence.

(3) If the affairs of a body corporate are managed by its members, paragraph (2) applies in relation to the acts and defaults of a member in connection with the functions of management as if the member were a director or manager of the body corporate.

(4) An offence under these Regulations may be prosecuted in a summary manner by the Minister..

Evidence on certificate

27. (1) In proceedings for an offence consisting of a contravention of these Regulations, a certificate purporting to be signed by a person employed at a laboratory named in the certificate stating the capacity in which that person is so employed and stating any one or more of the following, namely—

- (a) that the person received a sample submitted to the laboratory,
- (b) that, for such period as is specified in the certificate, the person had in his or her custody a sample so submitted,

- (c) that the person gave to such other person as is specified in the certificate a sample so submitted, or
- (d) that the person carried out any laboratory examination for the purpose of detecting the presence, in a sample so submitted, of Newcastle disease, or that the sample was positive for Newcastle disease,

is, unless the contrary is shown, evidence of the matters stated in the certificate.

(2) A certificate purporting to be signed by an officer of the Minister and to certify that on a specific day or days or during the whole of a specified period—

- (a) a person was or was not the holder of a movement notice, or
- (b) that a particular movement notice was subject to a particular condition or conditions,

is, without proof of the signature of the person purporting to sign the certificate or that he or she is an officer of the Minister, evidence, unless the contrary is shown, of the matters stated in the certificate.

(3) In any proceedings, evidence of a notice may be given by producing a copy of the notice which has endorsed on it a certificate purporting to be signed by an officer of the Minister stating that the copy is a true copy is, without proof of the signature of the person purporting to sign the certificate or that he or she is an officer of the Minister, evidence, unless the contrary is shown, of the notice.

(4) In proceedings for an offence under these Regulations the court may, if it considers that the interests of justice so require, direct that oral evidence of the matters stated in a certificate under paragraph (1), (2) or (3) be given, and the court may for the purpose of receiving oral evidence adjourn the matter.

(5) In any proceedings, evidence of an act of the institutions of the European Community may be given by production of a copy of the act certified by an officer of the Minister to be a copy of the act, and it is not necessary to prove the signature of the officer or that he or she is an officer of the Minister.

(6) Paragraph (5) is in addition to and not in substitution for the European Communities (Judicial Notice and Documentary Evidence) Regulations 1972 (S.I. No. 341 of 1972).

Notices and directions

28. (1) Where a notice is issued under Regulation 4, 5, 6, 7, 8, 9, 11, 13, or 14 notice of it being issued shall be published in at least one newspaper published in the State and circulating in the areas referred to in the notice, and by any other method the Minister considers appropriate.

(2) Without prejudice to paragraph (1), a notice or direction issued under these Regulations, may be given—

(a) generally by publishing notice of it in at least one newspaper published in the State and circulating in the area referred to in the notice or by such other means as the Minister considers appropriate, or

(b) by an authorised officer giving it directly to a person or by leaving it at the holding or premises concerned.

(3) Where not explicitly provided for in a Regulation, an authorised officer may, nevertheless, issue a direction to a person relating to a requirement in the Regulation, either by giving it directly to the person concerned or leaving it at the holding or premises concerned or by any other method as the Minister considers appropriate.

(4) The Minister or an authorised officer may revoke or amend a notice issued under these Regulations.

(5) A notice or direction under these Regulations remains in force until it is amended or revoked by another notice or direction unless the notice or direction specifically states otherwise.

Revocation

29. The European Communities (Newcastle Disease) Regulations 2011 (S.I. No 519 of 2011) are revoked.



GIVEN under my Official Seal,
22 February 2012.

SIMON COVENEY,
Minister for Agriculture Food and the Marine.

EXPLANATORY NOTE

(This note is not part of the instrument and does not purport to be a legal interpretation).

These Regulations implement Council Directive No. 92/66/EEC of 14 July 1992 (as amended by Council Regulation (EC) No. 806/2003 of 14 April 2003, Council Directive No. 2006/104/EC of 20 November 2006 and Council Directive No. 2008/73/EC of 15 July 2008) introducing Community measures for the control of Newcastle disease and for the application of control measures in the event of an outbreak of the disease and replace the European Communities (Newcastle Disease) Regulations 2011 (S.I. No 519 of 2011).

BAILE ÁTHA CLIATH
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Le ceannach díreach ón
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TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,
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