

S.I. No. 479/2002 — Diseases of Animals Act 1966 (Aujeszky's Disease) Order 2002

S.I. No. 479 of 2002

Diseases of Animals Act 1966 (Aujeszky's Disease) Order 2002

I, Joe Walsh, Minister for Agriculture and Food, in exercise of the powers conferred on me by sections 3 and 13 of the Diseases of Animals Act 1966 (No. 6 of 1966) (as adapted by the Agriculture, Food and Rural Development (Alteration of Name of Department and Title of Minister) Order 2002 (S.I. No. 306 of 2002)), for the purpose, *inter alia*, of giving effect to Commission Decision 2001/618/EC of 23 July 2001¹, hereby order as follows:-

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|----------------------------------|---|-----|--|
| Citation and commencement | 1 | (1) | This Order may be cited as the Diseases of Animals Act 1966 (Aujeszky's Disease) Order 2002. |
| | | (2) | Article 7 comes into operation on 1 August 2003. |
| Interpretation | 2 | (1) | In this Order - <p>“Act” mean the Diseases of Animals Act 1966 (No. 6 of 1966);</p> <p>“Aujeszky's disease health status” means a category assigned to a holding and pigs thereon under Article 4;</p> <p>“Aujeszky's disease free region” means a region specified in Annex I to the Commission Decision;</p> <p>“authorised officer” means an authorised officer within the meaning of section 17A (inserted by section 2 of the Diseases of Animals (Amendment) Act 2001 (No. 3 of 2001)) of the Act;</p> <p>“Commission Decision” means Commission Decision 2001/618/EC of 23 July 2001;</p> <p>“holding” has the same meaning as in the Pig Identification Order;</p> <p>“pig” means an animal of the porcine species;</p> <p>“pig herd registration number” has the same meaning as in the Pig Identification Order;</p> |

“Pig Identification Order” means the Diseases of Animals Act 1966 (National Pig Identification and Tracing System) Order 2002 (S.I. No. 341 of 2002);

“prescription” has the same meaning as in the Animal Remedies Regulations 1996 (S.I. No. 179 of 1996);

“recognised laboratory” means a laboratory specified under Article 14;

“result” means result of a test;

“sample” means any matter of porcine origin or feed and includes waste, whole or parts of a pig, parts of organs and secretions of a pig, a toxin, antitoxin, serum, antiserum, extract and blood product;

“slaughterhouse” has the same meaning as in the Pig Identification Order;

“test” means a test for Aujeszky's disease and includes taking a sample, analysing a sample or anything associated with the taking or analysis of a sample and the result of a test (whether the test was commenced or completed before or after the making of this Order);

“Third Country” means a country other than a member state of the European Communities;

“vaccine” means an animal remedy, authorised in accordance with the Animal Remedies Regulations 1996 (S.I. No. 179 of 1996) and obtained under the prescription of a veterinary surgeon, that may be administered to a pig to produce active or passive immunity or to diagnose the state of immunity to Aujeszky's disease.

- (2) In this Order -
- (a) a reference to an Article, Schedule or part of a Schedule is to an Article of, Schedule to, or part of a Schedule to, this Order, unless it is indicated that reference to some other Order is intended, and
- (b) a reference to a paragraph or a subparagraph is a reference to the paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended.
- (3) A word or expression that is used in the Commission Decision and is also used in this Order has, in this Order, the same meaning as it has in the Commission Decision.
- (1) Subject to paragraph (2), a person shall not have a pig in his or her possession or under his or her control on a holding unless the holding

status

has been assigned an Aujeszky's disease health status and he or she has received written notice thereof from, or on behalf of, the Minister.

- (2) A person may have a pig in his or her possession or under his or her control on a holding that has not been assigned an Aujeszky's disease health status until an Aujeszky's disease health status category has been assigned to the holding.
- (3) The Minister may serve a notice on a person who he or she has reasonable cause to believe has in his or her possession or under his or her control a pig on a holding requiring the person to cause a veterinary surgeon to take a sample from a pig or pigs on the holding within a period specified in the notice.
- (4) Subject to paragraphs (15) and (16), a person shall not move -
 - (a) a pig from which a sample has been taken, or
 - (b) any other pig,onto or off a holding in the period commencing on the taking of a sample from a pig on the holding and ending when an Aujeszky's disease health status has been assigned to the holding following completion of the test on the said sample, unless the pig is a pig to which subparagraph (b) refers and is moved directly to a slaughterhouse.
- (5) A person shall comply with a notice served under paragraph (3) or paragraph (14).
- (6) A person who has a pig from which a sample has been taken in his or her possession or under his or her control shall, at the time the sample is taken, identify the pig by means of a unique identification mark and provide details of the identification mark to the veterinary surgeon who has taken the sample or to an authorised officer on request by the authorised officer.
- (7) A veterinary surgeon who takes a sample shall transmit the sample, or cause the sample to be transmitted, to a recognised laboratory accompanied by a document in the form specified in the First Schedule which he or she shall have completed (other than those parts that refer to test results or refer to a laboratory).
- (8) A person on whom a notice is served, his or her employees, servants or agents shall give any assistance to a veterinary surgeon who is carrying out a test or to an authorised officer as the veterinary surgeon or authorised officer may request.
- (9) The owner or person in charge of a pig proposed to be or being tested shall inform the veterinary surgeon or authorised officer carrying out the test of the existence of any circumstances of which he or she may be aware which might affect the accuracy of the test.

- (10) A person shall not—
- (a) give to, or introduce into the body of, a pig any substance, or
 - (b) carry out any process or operation (including the making or obliterating of any identification mark) on, or apply any treatment to the body of a pig,
- that may affect the accuracy of a test.
- (11) The owner or person in charge of a pig shall take such care of the pig to ensure that paragraph (10) is not contravened in relation to the pig.
- (12) As soon as practicable after receipt of a sample, a recognised laboratory shall analyse the sample to the standard specified in Annex III to the Commission Decision and inform the Minister of the result as soon as it becomes available and no later than 5 working days of the sample being received.
- (13) As soon as may be after receipt of a result, the Minister shall inform the veterinary surgeon who took the sample and the person on whom a notice was served in accordance with paragraph (3) of the result.
- (14) If a person is notified by the Minister that, in the Minister's opinion, a result does not allow a veterinary surgeon to ascertain Aujeszky's disease health status of a pig, he or she shall cause a veterinary surgeon to take a sample from each pig on the holding from which a sample was previously taken within the period specified in the notification.
- (15) If a result is not received, in accordance with paragraph (13), a person who has a pig in his or her possession or under his or her control on a holding may apply to the Minister in writing for a licence to move a pig onto or off the holding and the Minister may permit movement under such conditions as he or she thinks fit.
- (16) An authorised officer may move a pig to which paragraph (4) applies or cause the pig to be moved if he or she has reasonable cause to believe that the movement is necessary to safeguard the health and welfare of the pig.

**Categorization
of holdings**

4

- (1) On receipt of the result relating to a pig on a particular holding, other than a result to which Article 3(14) applies, or within one month of the elapse of the period on a notice issued under Article 3(3), the Minister shall assign an Aujeszky's disease health status specified in the Second Schedule to the holding.
- (2) A person who, on the making of this Order, has a pig in his or her possession or under his or her control may apply to the Minister, in a form specified by the Minister and enclosing any particulars that the Minister may require, to have an Aujeszky's disease health status category 1 assigned to his or her holding.

- Maintenance of status** 5
- (3) If the Minister is satisfied that conditions equivalent to those specified opposite reference number 1 of the Second Schedule and Article 5 have been adhered to in respect of the holding and pigs thereon prior to and subsequent to the making of this Order, he or she may assign Aujeszky's disease health status category 1 to the holding.
- (1) If a holding has been assigned Aujeszky's disease health status category 1, the owner or person in charge of pigs on the holding shall, at intervals of 4 months, arrange to have tests carried out as directed by the Minister.
- (2) If a holding has been assigned Aujeszky's disease health status category 2, the owner or person in charge of pigs on the holding shall arrange to have tests carried out as directed by the Minister from time to time.
- (3) A person shall not administer a vaccine to a pig on a holding that has been assigned Aujeszky's disease health status category 1.
- (4) A person shall not have in his or her possession or under his or her control a pig-
- (a) to which a vaccine has been administered contrary to paragraph (3),
- (b) into whose body a substance has been introduced contrary to Article 3(10),
- (c) in respect of which a process or operation has been carried out contrary to Article 3(10),
- (d) in respect of which a treatment has been applied contrary to Article 3(10), or
- (e) that has been imported contrary to Article 8 (5) or Article 8 (6).
- (5) A person shall not have a vaccine in his or her possession or under his or her control on a holding that has been assigned Aujeszky's disease health status category 1.
- Change of Aujeszky's disease health status** 6
- (1) If a pig is moved onto a holding that has been assigned an Aujeszky's disease health status category 1 or category 2-
- (a) from a holding that has been assigned an Aujeszky's disease health status category 3 or category 4,
- (b) from a holding that has not been assigned an Aujeszky's disease health status,
- (c) and that pig has been imported contrary to Article 8 (5) or

Article 8 (6),

- (d) and where the identity of the pig cannot be readily ascertained, or
- (e) and where the identity of the holding of origin cannot be readily ascertained,

the Aujeszky's disease health status category of the first mentioned holding shall become Aujeszky's disease health status category 4.

- (2) If the Minister gives notice of change of Aujeszky's disease health status relating to the holding, he or she shall —
 - (a) notify the person concerned in writing of the decision and the reasons therefor, and that he or she may make representations to the Minister in relation to the decision within 14 days of the notification,
 - (b) consider a representation made, and
 - (c) confirm, modify or annul the decision and notify the person concerned of the decision and the reasons therefor,

but without prejudice to the validity of anything previously done as a result of the assignment of, or change to, the Aujeszky's disease health status relating to the holding.

Prohibition on movement

- 7 (1) A person shall not move a pig or cause or permit another person to move a pig from a holding that has been assigned an Aujeszky's disease health status category 3 or category 4 onto a holding that has been assigned an Aujeszky's disease health status category 1 or category 2.
- (2) A person shall not have in his or her possession or under his or her control a pig that has been moved contrary to paragraph (1).

Control on export and import

- 8 (1) A person shall not export a pig (other than for slaughter) to an Aujeszky's disease free region unless the holding of origin of the pig has been assigned Aujeszky's disease health status category 1 and the export is otherwise in compliance with Article 1 or 2 of the Commission Decision.
- (2) A person shall not export a pig for slaughter to an Aujeszky's disease free region unless the holding of origin of the pig has been assigned Aujeszky's disease health status category 1 or category 2 and the export is otherwise in compliance with Article 1 or 2 of the Commission Decision.
- (3) A person shall not export a pig for breeding to a Member State or region of a Member State listed in Annex II to the Commission Decision unless the holding of origin of the pig has been assigned Aujeszky's disease health status category 1 or category 2 and the export is otherwise in

compliance with Article 3(c) of the Commission Decision.

- (4) A person shall not export a pig for production to a Member State or region of a Member State listed in Annex II to the Commission Decision unless the holding of origin of the pig has been assigned Aujeszky's disease health status category 1 or category 2 and the export is otherwise in compliance with Article 4(c) of the Commission Decision.
- (5) A person shall not import a pig from another Member State unless the pig is consigned-
- (a) from a herd in an Aujeszky's disease free region,
 - (b) for breeding, and the conditions in Article 3 of the Commission Decision have been complied with in respect of the pig,
 - (c) for production, and the conditions in Article 4 of the Commission Decision have been complied with in respect of the pig, or
 - (d) directly for slaughter at a slaughterhouse.
- (6) A person shall not import a pig from a Third Country unless the pig is consigned in accordance with the provisions of Commission Decision 2002/199/EC².

**Eradication of
Aujeszky's
disease**

9

- (1) If a holding has been assigned an Aujeszky's disease health status, the Minister may serve a notice in writing (“direction”) and direct -
- (a) that a plan for the prevention, control and eradication of Aujeszky's disease (“control plan”) is put in place for the holding within 30 days of service of the direction, and
 - (b) criteria with which the control plan must comply.
- (2) Without prejudice to the generality of paragraph (1) (a), the Minister may direct that a control plan contain such provisions and comply with such requirements as are specified in the direction, including provisions and requirements relating to -
- (a) the form of the plan,
 - (b) the taking of samples on the holding,
 - (c) the testing of samples at a recognised laboratory,
 - (d) the frequency with which tests are to be conducted,
 - (e) the number, type and age of pigs to be tested or subjected to

other analysis,

- (f) the administration of vaccine to a pig on the holding,
 - (g) disinfection procedures to be adopted in relation to the holding or any part thereof,
 - (h) transport of a pig onto or off the holding, and
 - (i) other measures to be taken by the person on whom the direction is served to control and eradicate Aujeszky's disease.
- (3) A person on whom a direction is served shall comply with the direction.
- (4) The Minister may approve a control plan prepared and submitted under this Article or refuse to approve a plan.
- (5) The Minister may within a period of 60 days of the submission of a control plan to him or her require, by notice in writing, that the plan concerned be modified in such manner as he or she directs.
- (6) If the Minister requires that a control plan be modified, the owner or person in charge of the holding shall modify the plan in accordance with directions of the Minister, within a period of 30 days of service on him or her of a notice under paragraph (5), submit the plan as so modified to the Minister for approval by him or her.
- (7) Where the Minister fails, within a period of 60 days of the receipt by him or her of a plan under this Article, to -
- (a) approve,
 - (b) refuse approval of, or
 - (c) require under paragraph (5) the modification of,
- the plan concerned, it shall stand approved by him or her.

Returns and records

- 10 (1) If a veterinary surgeon issues a prescription for a vaccine, he or she shall make a return in writing, in a form and manner approved by the Minister, of -
- (a) the name and address of the person in respect of whose herd the prescription was issued,
 - (b) the location of, and pig herd registration number relating to, the holding and
 - (c) the name, number of doses and batch number of the vaccine,

- (2) The owner or person in charge of a pig and a person who administers a vaccine to a pig shall, in respect of the administration, maintain the Animal Remedies Record provided under Regulation 42 of the Animal Remedies Regulations 1996 (S.I. No. 179 of 1996).
- (3) Paragraph (2) is in addition to and not in substitution for Regulation 42 of the Animal Remedies Regulations 1996 (S.I. No. 179 of 1996).

Costs

- 11 The Minister is not liable for costs arising from-
- (a) taking or transmitting a sample (other than a sample taken by an authorised officer under section 17A (inserted by the Diseases of Animals (Amendment) Act 2001) of the Act),
 - (b) a defect in analysis at a recognised laboratory,
 - (c) preparing or implementing a control plan including any modification thereto, or
 - (d) the assignment of an Aujeszky's disease health status to a holding either in the first instance or subsequently.

Forgery etc.

- 12
- (1) A person shall not forge or utter knowing it to be forged any notice, direction, eradication plan, return, record, identification mark or document established under this Order or a document purporting to be an extract therefrom (hereafter in this Article referred to as “a forged record”), or
 - (2) A person shall not alter with intent to defraud or deceive, or utter knowing it to be so altered any notice, direction, eradication plan, return, record, identification mark or document established under this Order or a document purporting to be an extract therefrom (hereafter in this Article referred to as “an altered record”), or
 - (3) A person shall not have, without lawful authority, in his or her possession or under his or her control a forged record or altered record.
 - (4) A person shall not -
 - (a) efface, obliterate or alter an identification mark applied pursuant to this Order or attach or apply an identification mark which could be confused with an identification mark attached or applied pursuant to this Order, or
 - (b) have in his or her possession or under his or her control a pig bearing an identification mark, which could be confused with an identification mark attached or applied pursuant to this Order.
 - (5) A person, in purported compliance with this Order, shall not give information that he or she knows to be false or misleading.

**Service of
Notice etc.**

- 13 (1) A notice, direction or other document under this Order shall, subject to paragraph (2), be addressed to the person concerned by name, and may be served on or given to the person -
- (a) by delivering it to the person,
 - (b) by leaving it at the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, at that address,
 - (c) by sending it in the post in a prepaid registered letter to the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, to that address, or
 - (d) if the address at which the person ordinarily resides cannot be ascertained by reasonable enquiry and the notice, direction or other document relates to land, by delivering it to some person over 16 years of age resident or employed on the land or by affixing it in a conspicuous position on or near the land.
- (2) Where a notice, direction or other document under this Order is to be served on or given to a person who is the owner or occupier of land and the name of the person cannot be ascertained by reasonable enquiry, it may be addressed to the person using the words the owner or, as the case may be, the occupier.
- (3) A person shall not, at any time during the period of 12 months after a notice, direction or other document is affixed under paragraph (1)(d), remove, damage or deface the notice, direction or other document without lawful authority.
- (4) For the purposes of this Article, a company within the meaning of the Companies Acts 1963 to 1990, shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body shall be deemed to be ordinarily resident at its principal office or place of business.

**Recognised
Laboratory**

- 14 A laboratory specified in the Third Schedule is a recognised laboratory.

FIRST SCHEDULE

ARTICLE 3

SECOND SCHEDULE

Article 4

Category	Test Results and Vaccination Status
1	Two tests have been carried out at an interval of not less than four months and not greater than six months apart with negative test results for each test with the detection of Aujeszky's disease to a confidence level of 95% and no pig on the holding has been vaccinated (whether on the holding or otherwise) in the twelve months prior to the first test.
2	Negative test results with the detection of Aujeszky's disease to a confidence level of 95% on a holding in which pigs may have been vaccinated.
3	There has been a positive test result for Aujeszky's disease from a sample taken from a pig on the holding.
4	Pigs on the holding have not been tested for Aujeszky's disease or the holding has otherwise been assigned this category.

THIRD SCHEDULE

Article 14

Recognised Laboratories

Central Veterinary Research Laboratory, Abbotstown, Castleknock, Dublin 15

Irish Equine Centre, Johnstown, Naas, Co Kildare

GIVEN under my Official Seal,

17th October 2002

Joe Walsh

Minister for Agriculture and Food

Explanatory Note

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

This Order provides the legal basis for the programme for the control and eradication of Aujeszky's disease in the national pig herd.

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¹ O.J. No. L 215, 9.8.2001, p.48.

² O.J. No.L71,13.3.2002, p.1

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