

S.I. No. 79 of 2001

Diseases of Animals Acts, 1966 to 2001 (Approval and Registration of Dealers and Dealers'

Premises) Order, 2001

I, Joe Walsh, Minister for Agriculture, Food and Rural Development, in exercise of the powers conferred on me by section 3 and section 29A (inserted by the Diseases of Animals (Amendment) Act, 2001 (No. 3 of 2001)) of the Diseases of Animals Act, 1966 (No. 6 of 1966), and, in so far as they relate to dealers in cattle and swine, for the purposes of giving further effect to Council Directive 97/12/EC of 17 March 1997⁽¹⁾, Council Regulation (EC) No. 820/97 of 21 April 1997⁽²⁾, Commission Regulation (EC) No. 2628/97 of 29 December 1997⁽³⁾, Commission Regulation (EC) No. 2629/97 of 29 December 1997⁽⁴⁾, Commission Regulation (EC) No. 2630/97 of 29 December 1997⁽⁵⁾ and Commission Regulation (EC) No. 494/98 of 27 February 1998⁽⁶⁾ hereby order as follows:

Citation

1. This Order may be cited as the Diseases of Animals Acts, 1966 to 2001 (Approval and Registration of Dealers and Dealers' Premises) Order, 2001.

⁽¹⁾ O.J. No. L 109 of 25. 4.97, p. 1.

⁽²⁾ O.J. No. L 117 of 7. 5.97, p. 1.

⁽³⁾ O.J. No. L 354 of 30.12.97, p.17.

⁽⁴⁾ O.J. No. L 354 of 30.12.97, p.19.

⁽⁵⁾ O.J. No. L 354 of 30.12.97, p.23.

⁽⁶⁾ O.J. No. L 60 of 28. 2.98, p.78.

Interpretation

2. (1) In this Order -

“approval number” means a number issued in accordance with Article 6 or 7;

“authorised officer” means either -

- (a) 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 Principal Act, or
- (b) an authorised person within the meaning of section 25 of the Principal Act;

“control number” means -

- (a) in the case of cattle, the herd number allocated for the time being to a herd of cattle by the Minister,
- (b) in the case of sheep, the flock number allocated for the time being to a flock of sheep by the Minister,
- (c) in the case of swine, the pig unit number allocated for the time being to a pig unit by the Minister, or

- (d) in the case of any other species of animal or poultry, the unit number of the species concerned allocated for the time being to a herd or flock (by whatever name called) of species by the Minister;

“Council and Commission Regulations” means Council Regulation (EC) No.820/97 of 21 April 1997⁽²⁾, Commission Regulation (EC) No. 2628/97 of 29 December 1997⁽³⁾, Commission Regulation (EC) No. 2629/97 of 29 December 1997⁽⁴⁾, Commission Regulation (EC) No. 2630/97 of 29 December 1997⁽⁵⁾ and Commission Regulation (EC) No. 494/98 of 27 February 1998⁽⁶⁾;

“Council Directive” means Council Directive 97/12/EC of 17 March 1997⁽¹⁾;

“dealer” means a person who purchases an animal or poultry to which Article 4 relates and sells and supplies such animal or poultry to another person within a period of 45 days.

“dealers’ register” and “premises register” have the meaning assigned to them respectively by Articles 6 and 7;

“district veterinary office” means a district veterinary office of the Department of Agriculture, Food and Rural Development;

⁽²⁾ O.J. No. L 117 of 7. 5.97, p. 1.

⁽³⁾ O.J. No. L 354 of 30.12.97, p.17.

⁽⁴⁾ O.J. No. L 354 of 30.12.97, p.19.

⁽⁵⁾ O.J. No. L 354 of 30.12.97, p.23.

⁽⁶⁾ O.J. No. L 60 of 28. 2.98, p. 78.

⁽¹⁾ O.J. No. L 109 of 25. 4.97, p. 1.

“ear-tag” means -

- (a) an approved ear-tag within the meaning of the Bovine Tuberculosis (Attestation of the State and General Provisions) Order, 1989 (S.I. No. 308 of 1989),
- (b) an ear-tag referred to in Article 4 of the Bovine Tuberculosis (Attestation of the State and General Provisions) Order, 1996 (S.I. No. 103 of 1996), or
- (c) an ear-tag referred to in Article 2 of the Bovine Tuberculosis (Attestation of the State and General Provisions) Order, 1999 (S.I. No. 277 of 1999);

“identity card” means -

- (a) an identity card issued under Article 32 paragraph (2) of the Bovine Tuberculosis (Attestation of the State and General Provisions) Order, 1989 (S.I. No. 308 of 1989),
- (b) a permit issued under Article 33 of the Bovine Tuberculosis (Attestation of the State and General Provisions) Order, 1989 (S.I. No. 308 of 1989),
- (c) an identity card issued under Article 27 of the Brucellosis In Cattle (General Provisions) Order, 1991 (S.I. No. 114 of 1991),

- (d) an identity card issued in accordance with Article 5 paragraph (1) of the Bovine Tuberculosis (Attestation of the State and General Provisions) Order, 1996 (S.I. No. 103 of 1996), or
- (e) a passport referred to in Regulation 2 of the European Communities (Identification and Registration of Bovine Animals) Regulations, 1999 (S.I. No. 276 of 1999);

“Minister” means the Minister for Agriculture, Food and Rural Development;

“premises” includes any establishment, construction and, in the case of an open-air farm, any place in which animals or poultry are kept situated within the State;

“Principal Act” means the Diseases of Animals Act, 1966 (No. 6 of 1966);

“registered veterinary surgeon” means a person currently registered in the register established under the Veterinary Surgeons Act, 1931 (No. 36 of 1931).

(2) A word or expression that is used in this Order and is also used in the Council Directive or the Council and Commission Regulations has, unless the contrary intention appears, the same meaning in this Order as it has in the Council Directive or the Council and Commission Regulations, as appropriate.

(3) In this Order a reference to buy and sell, however expressed, shall be construed as including an invitation to treat.

(4) In this Order -

(a) a reference to an Article is to an Article of this Order unless it is indicated that reference to some other provision is intended;

(b) a reference to a paragraph or subparagraph is 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.

General provisions

3. (1) It shall not be lawful for a dealer to engage in the buying or selling of animals or poultry other than in compliance with this Order.

(2) A dealer shall not use any premises in connection with the buying or selling of animals or poultry unless that premises meets the requirements of this Order

(3) A dealer shall, at the time of purchase or sale of any animal or poultry, present the appropriate approval number to the person from or to whom that animal or poultry is bought or sold or to the person in charge of an assembly centre or of an abattoir or slaughterhouse.

(4) It shall not be lawful for a person to buy any animal or poultry from or sell any animal or poultry to a dealer unless the dealer is approved, registered and in possession of a current approval number under this Order.

(5) It shall not be lawful for a person to cause or permit any animal or poultry to be bought from or sold to a dealer unless the dealer is approved, registered and in possession of a current approval number under this Order.

(6) A dealer shall not engage in the buying or selling of animals or poultry, the importation of which has been prohibited under Community or national animal health legislation.

(7) Where any person fails to comply with any of the provisions of -

- (a) the Principal Act or any instrument made under it (including this Order),
- (b) the Animal Remedies Act, 1993, (No. 23 of 1993) or any instrument made under it,
- (c) the Council Directive, the Council and Commission Regulations or any other act adopted by the institutions of the Community relating to animal or poultry health status or identification, or
- (d) any implementation by a Member State of any act referred to in subparagraph (c)

it shall be lawful for the Minister to have regard to such failure in relation to the approval, registration, suspension or revocation of the approval or registration of any person under Article 6.

Limitations relating to dealers

4. (1) A dealer shall deal only -
- (a) in animals or poultry that come from a herd, flock or unit that is officially free of the diseases specified in Part III of the First Schedule to the Principal Act,
 - (b) in cattle that -
 - (i) are duly identified by an ear-tag in either or both ears (as appropriate), or by another form of identification as may be prescribed by the Minister, of each animal concerned,
 - (ii) are accompanied by a passport or identity card and health documents, as appropriate, and
 - (iii) meet the requirements relating to Bovine Tuberculosis and Brucellosis as prescribed in the Bovine Tuberculosis (Attestation of the State and General Provisions) Order, 1989 (S.I. No. 308 of 1989), as amended and the Brucellosis in Cattle (General Provisions) Order, 1991 (S.I. No. 114 of 1991), as amended,
 - (c) in sheep that are duly identified and accompanied by any identification and health documents which the Minister may require for the purpose of the prevention of the outbreak or spread of disease, or

- (d) in swine that are properly identified and accompanied by identification and health documents, as appropriate.

(2) Where in respect of any species of animal to which paragraph (1) does not relate or in respect of any species of poultry (being a species to which Part I or II, respectively, of the First Schedule to the Principal Act relates) the Minister requires that, for the purpose of the prevention of the outbreak or spread of disease, dealing in that species be accompanied by identification and health documents, then a dealer shall only deal in that species if it is so identified and accompanied.

(3) A dealer shall deal only -

- (a) with another person who is approved under this Order or with a person who has been issued with a control number, or
- (b) with an assembly centre approved in accordance with the Council Directive or an abattoir registered under the Agricultural Produce (Fresh Meat) Acts 1930 to 1938, the Pigs and Bacon Acts, 1935 to 1961, the Abattoirs Act, 1988 (No. 8 of 1988) or the European Communities (Knackery) Regulations, 1996 (S.I. No. 396 of 1996), or
- (c) with any other person as may be prescribed by the Minister.

(4) Notwithstanding paragraph (1), the Minister may authorise the involvement of dealers in the marketing of properly identified animals or poultry which do not fulfil these conditions where such animals or poultry -

- (a) are brought direct to an abattoir or slaughterhouse, without passing through the dealers' facilities, for slaughter as soon as possible in order to prevent the outbreak or spread of disease, or
- (b) belong to a category prescribed by the Minister which may include the category of steers from herds not officially free of Brucellosis.

Obligations and responsibilities of dealers

5. (1) In addition to any obligations on keepers to maintain a register of animals or poultry provided for in Community legislation, a dealer shall, either on the basis of documents accompanying an animal or poultry or of an identification number or mark on the animal or poultry, keep a record for at least 3 years following the date of purchase or sale of the animal or poultry concerned of -

- (a) the name and address of the person from whom any animal or poultry was purchased, date of purchase, category, number and identification number or mark of such animal or poultry and the registration number of the vendor and the control number of the premises of most recent origin of the animal or poultry purchased,
- (b) the registration number of the transporter or the licence number of the lorry or vehicle delivering and collecting any animal or poultry,
- (c) the name and address of the purchaser of any animal or poultry, the destination of the animal or poultry concerned, date of sale, number and identification number or mark of each such animal or poultry and registration number of the purchaser and the control number of the premises of destination of each animal or poultry, and
- (d) copies of route plans or serial number of health certificates, as appropriate.

(2) The record referred to in paragraph (1) shall be established and maintained in a format approved by the Minister.

(3) Every dealer shall furnish information to the Minister or to a body designated by the Minister in relation to each transaction completed in respect of animals or poultry as required under this Order and, where appropriate, the Council and Commission Regulations and such information shall be provided in the format and within the timescale as the Minister shall communicate to the dealer concerned.

(4) Where a dealer keeps animals or poultry on his or her premises, he or she shall ensure that -

(a) appropriate training is given to the persons in charge of the animals or poultry in applying the requirements of this Order and in their care and welfare, and

(b) the carrying out of controls and tests on animals or poultry by an official veterinarian or a registered veterinary surgeon or otherwise to prevent the outbreak or spread of disease, is facilitated.

(5) A dealer shall provide full details of all premises within the State used by him or her in connection with the buying or selling of animals or poultry to the district veterinary office for the area in which any of the premises are located and keep the appropriate district veterinary office fully informed of the details of any additional or materially modified premises.

(6) A dealer shall ensure that all such premises -

- (a) are accessible to an authorised officer and to any registered veterinary surgeon nominated by the Minister,
- (b) have appropriate facilities of sufficient capacity and in particular inspection and isolation facilities so that all animals or poultry can be isolated in the event of an outbreak of a contagious disease,
- (c) have appropriate facilities, which must be easy to clean and disinfect, for unloading animals or poultry and where necessary adequate housing of a suitable standard for the animals or poultry, for watering and feeding them and for giving them any necessary treatment,
- (d) have an appropriate reception area for litter and manure and an appropriate system for collecting waste water, and
- (e) are cleaned and disinfected before use as may be required by an official veterinarian.

(7) A dealer shall ensure that animals or poultry are transported in accordance with the provisions of the Council Directive and other Community and national animal health or protection of animals legislation.

Approval and registration of dealers

6. (1) The Minister shall establish and maintain a register (in this Order referred to as the “dealers’ register”) of dealers approved, registered and issued with approval numbers.

(2) An application for approval and registration in the dealers’ register shall be made in such form as the Minister may specify.

(3) A person applying for approval and registration in the dealers’ register shall furnish the Minister with such information as the Minister may reasonably require for the purposes of his or her functions under this Order.

(4) The dealers’ register may be established and maintained in a form that is not legible if it is capable of being converted into a legible form.

(5) The Minister shall, following approval and registration, cause to be issued to a dealer a document containing an approval number which shall be used for the purposes of this Order and which shall be valid for a period of not more than 2 years, after which period the dealer shall apply for renewal of approval and registration.

(6) A certificate purporting to be signed by a person authorised by the Minister to certify that on a specified day or days or during the whole of a specified period a particular person did not stand registered in the dealers’ register or that on a specified day his or her registration had been revoked shall, without proof of either the signature of the person purporting to sign the certificate or that he or she was so authorised by the Minister, be evidence, unless the contrary is shown, of the matters stated in the certificate.

(7) Subject to paragraph (9), a dealer shall not engage in the buying or selling of animals or poultry to which this Order relates unless for the time being registered in the dealers' register.

(8) Where the Minister is satisfied that the provisions of this Order, the Council Directive, the Council and Commission Regulations, or other Community or national legislation relating to animal or poultry health or identification and registration are not being complied with by a person registered in the dealers' register or will not be complied with by an applicant for such registration, then he or she may revoke or suspend the registration or refuse to register that person in the dealers' register.

(9) Notwithstanding Article 7, a dealer who is already registered with the appropriate district veterinary office may continue to operate for a period of 2 months, or such other period as the Minister may specify, following the coming into operation of this Order without being registered in the dealer's register provided his or her business as a dealer is otherwise carried out in accordance with –

- (a) the Diseases of Animals Acts, 1966 to 2001, and orders made under it,
- (b) the Animal Remedies Act, 1993, (No. 23 of 1993) or any instrument made under it,
- (c) the Council Directive, the Council and Commission Regulations or any other act adopted by the institutions of the Community relating to animal or

poultry health status or identification, and

- (d) any implementation by a Member State of any act referred to in subparagraph (c).

Approval and registration of premises

7. (1) The Minister shall establish and maintain a register (in this Order referred to as the “premises’ register”) of premises approved and registered for use by dealers in connection with the buying or selling of animals.

(2) An application for approval and registration in the premises’ register shall be made in such form as the Minister may specify.

(3) A person applying for approval and registration of any premises in the premises’ register shall furnish the Minister with such information as the Minister may reasonably require for the purposes of his or her functions under this Order.

(4) The Minister may attach conditions or limitations in respect of the business that may be carried on in the premises.

(5) The premises’ register may be established and maintained in a form that is not legible if it is capable of being converted into legible form.

(6) The Minister shall, following approval and registration of a premises, cause to be issued a document containing an approval number in respect of the premises which shall be used for the purposes of this Order and which shall be valid for a period of not more than 2 years after which period the dealer shall apply for renewal of approval and registration of the premises concerned.

(7) A certificate purporting to be signed by a person authorised by the Minister to certify that on a specified day or days or during the whole of a specified period a particular premises did not stand registered in the premises' register or that on a specified day the registration had been revoked shall, without proof of either the signature of the person purporting to sign the certificate or that he or she was so authorised by the Minister, be evidence, unless the contrary is shown, of the matters stated in the certificate.

(8) Subject to paragraph (11), a dealer shall not use any premises in connection with the buying or selling of animals or poultry unless that premises are for the time being registered in the premises' register.

(9) Any additional or materially modified premises shall not be used by a dealer for the buying or selling of animals or poultry until it has been registered in the premises' register.

(10) Where the Minister is satisfied that the provisions of this Order, the Council Directive, the Council and Commission Regulations, other Community or national legislation relating to animal or human health or animal identification and registration are not being complied with at a premises registered in the premises' register or will not be complied with by an applicant for such registration, then he or she may revoke or suspend the registration or refuse to register the premises in the premises' register.

(10) Notwithstanding paragraph (8), a dealer who is already registered with the appropriate district veterinary office may continue to operate for a period of 2 months, or such other period as the Minister may specify, following the coming into operation of this

Order without his or her premises being registered in the premises' register provided his or her business as a dealer is otherwise carried out in accordance with –

- (a) the Diseases of Animals Acts, 1966 to 2001, or any instrument made under it,
- (b) the Animal Remedies Act, 1993 (No. 23 of 1993) or any instrument made under it,
- (c) the Council Directive, the Council and Commission Regulations or any other act adopted by the institutions of the Community relating to animal or poultry health status or identification, and
- (d) any implementation by a Member State of any act referred to in subparagraph (c).

Revocation, suspension or refusal to register a person or premises

8. (1) Where the Minister proposes to revoke or suspend a registration under Article 6 or 7, or to refuse to register a person or a premises in the dealers' register or the premises' register, respectively, the Minister shall -

- (a) notify the person concerned in writing of the proposal and of the reasons therefor,
- (b) notify that person in writing that he or she, or a person acting on his or her behalf, may make representations to the Minister in relation to the proposal within 14 days of the issue of the notification, and
- (c) consider any such representations duly made before deciding whether or not to proceed with the proposal.

(2) Where a registration under Article 6 or 7 is suspended or revoked, the Minister may issue a notice in writing requiring the dealer to cease to engage in dealing in specified animals or poultry or from using the premises for specified purposes from a date specified in that notice.

(3) Where the Minister suspends or revokes a registration made under Article 6, the person concerned shall cease to be registered in the dealer's register and he or she shall not engage in dealing in animals or poultry subsequent to the date of revocation or suspension, as in the case may be, except with the approval of the Minister.

(4) Where the Minister suspends or revokes a registration made under Article 7, the premises involved shall not be used for buying or selling animals or poultry and the business specified in any notice issued shall be discontinued from the date of revocation or suspension, as the case may be.

(5) The Minister may restore a registration, if the registration has been revoked or suspended in accordance with Article 6(8) or Article 7(10), in instances where the dealer demonstrates to the satisfaction of the Minister that he or she will comply with the requirements of, and that the premises will be used in accordance with, this Order, the Council Directive and the Council and Commission Regulations.

(6) The Minister may where he or she is satisfied that there is a serious and immediate risk to animal or poultry health or welfare, suspend, without affording to the person granted the registration an opportunity of making representations referred to in paragraph (1), a registration granted.

Authorised officers

9. (1) The Minister may appoint such and so many persons as he or she thinks fit to be authorised officers for the purposes of this Order or to undertake particular functions specified in this Order.

(2) An authorised officer, when exercising any power conferred on him or her by this Order, shall, if so requested by any person affected, produce evidence in writing of his or her appointment as an authorised officer or inspector.

(3) An authorised officer may for the purposes of this Order in respect of any premises duly entered -

- (a) examine or inspect any animals or poultry that he or she may find,
- (b) take, without payment of compensation, such samples from animals or poultry, including samples of blood, urine, faeces, hair, saliva or any other bodily discharge or thing or of any article, substance or liquid at the premises as may reasonably be required under this Order, and
- (c) there or at any other place, carry out or have carried out such analyses, examinations or checks on any article, substance or liquid found there as he or she reasonably considers necessary or expedient for the purposes of this Order.

(4) An authorised officer or member of the Garda Síochána may in respect of any premises duly entered -

- (a) require any person at the premises to give him or her such information and to produce to him or her such books, certificates, documents or other records within the power or procurement of the person may reasonably be required under this Order,
- (b) examine and take copies of, or extracts from, any such records as aforesaid, and
- (c) seize and detain anything found there which he or she reasonably believes to be evidence of an offence under this Order.

(5) It shall not be lawful for a person, in purported compliance with a requirement under subparagraph (a) of paragraph (4), to give information to an authorised officer or member of the Garda Síochána that he or she knows to be false or misleading in a material respect.

GIVEN under my Official Seal,

this day of March , 2001.

Minister for Agriculture, Food
and Rural Development.

Explanatory Note

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

This Order provides for the approval and registration of dealers in animals and poultry and their premises and it makes it illegal for a dealer to operate without such approval and registration. It regulates the operations of dealers and lays down their obligations and responsibilities in relation to the keeping of records and provision of information relating to their operations. It provides for the revocation or suspension of approval and registration of a dealer and/or his/her premises and also for refusal to approve or register a dealer or his/her premises.

It makes it illegal for any person to buy from or sell to a dealer any animals or poultry unless the dealer is approved, registered and in possession of current approval numbers i.e. a dealer approval number and a premises approval number.

It also transposes into Irish law Council Directive 97/12/EC, amending and updating Directive 64/432/EEC on health problems affecting intra-community trade, in so far as it relates to dealers in bovine animals and swine.

PN 9699

Published by the Stationery Office, Dublin.