

S.I. No. 61 of 1989.

**DISEASES OF ANIMALS (BOVINE SPONGIFORM ENCEPHALOPATHY)  
ORDER, 1989.**

I, MICHAEL O'KENNEDY, Minister for Agriculture and Food, in exercise of the powers conferred on me by sections 3 of the Diseases of Animals Act, 1966 (No. 6 of 1966), as adapted by the Agriculture (Alteration of Name of Department and Title of Minister) Order, 1987 (S.I. No. 97 of 1987), hereby order as follows:

**Citation and Commencement.**                   **1.** (1) This Order may be cited as the Diseases of Animals (Bovine Spongiform Encephalopathy) Order, 1989.

(2) This Order shall come into operation on the 1st day of April, 1989.

**Definitions.**           **2.** (1) In this Order—

"the Act" means the Diseases of Animals Act, 1966 (No. 6 of 1966);

"affected animal" means a bovine animal which is affected with the disease;

"animal" means a bovine animal;

"approved disinfectant" means a disinfectant for the time being approved by the Minister under the Diseases of Animals (Disinfectants) Order, 1975 (S.I. No. 273 of 1975) as amended by the Diseases of Animals (Disinfectants) Order, 1975 (Amendment) Order, 1978 (S.I. No. 345 of 1978);

"authorised officer" means a person appointed in writing by the Minister to be an authorised officer for the purposes of this Order;

"carcase" means the carcase of a bovine animal;

"the disease" means bovine spongiform encephalopathy and "diseased" shall be construed accordingly;

"premises" includes land;

"suspected animal" means a bovine animal which is suspected of being affected with the disease.

(2) In this Order any reference to a Schedule is to the Schedule to this Order.

**Notification of Disease.**           **3.** A person who has in his possession or under his charge an affected or a suspected animal, or the carcase of such an animal, and any veterinary surgeon or other person who, in the course of his duties, examines or inspects any such animal or carcase shall, with all practicable speed, notify the fact to—

( a ) the Secretary, Department of Agriculture and Food, Dublin 2, or

( b ) an inspector at a District Veterinary Office of the Department of Agriculture and Food.

**Detention pending examination.**           **4.** A person who has in his possession or under his charge on any premises an affected or a suspected animal, or the carcase of such an animal, shall detain it on the premises until it has been examined by an inspector.

**Inspection and sampling.**           **5.** (1) An inspector or an authorised officer may, for the purpose of preventing, checking or eradicating the disease, examine or inspect any animal or carcase or any premises when and as often as he may for the said purposes consider necessary.

(2) Where an inspector makes an examination or inspection pursuant to this Article, he may, either on that occasion or on a subsequent occasion, take or cause to be taken from the animal or carcase concerned samples for diagnostic purposes.

**Furnishing of information.**           **6.** The owner or occupier of premises on which an affected or suspected animal is or has been kept and his employees and any person who is or has been in possession or charge of any animal or carcase which is or has been on such premises shall if so required by an inspector give such information as he possesses as to—

- ( a ) any animal or carcase which is or has been on such premises;
- ( b ) any other animal or carcase with which any animal or carcase which is or has been on such premises may have come into contact;
- ( c ) the location and movement of any animal or carcase which is or has been in his possession or charge; and
- ( d ) the source of any fodder fed to animals on such premises.

Marking. **7.** (1) An inspector or an authorised officer may paint, stamp, clip, tag or otherwise mark any animal or carcase or require another person, being the owner or occupier of premises on which it is kept or his employee or a person who is in possession or charge of it, to mark in such manner as he shall direct and such mark may be permanent or otherwise.

(2) In case an inspector or an authorised officer makes a requirement under this paragraph, the person of whom the requirement is made shall comply therewith.

(3) A person shall not, other than with the permission of an inspector or an authorised officer, efface, obliterate, alter, or remove, or attempt to efface, obliterate, alter or remove, a mark applied pursuant to this Order.

Requirements in regard to affected or suspected animals. **8.** (1) An inspector may serve a notice (in the Form A set out in the Schedule or in a form to the like effect) on the owner or person in charge of an affected or suspected animal and upon service of such notice the requirements contained within it shall have effect.

(2) Subject to paragraph (3), a notice under paragraph (1) of this Article shall remain in force for a period of 28 days from the date specified in the notice unless renewed for a further period of 28 days beginning with the day on which it would otherwise have expired by a further notice in writing served by an inspector on the owner or person in charge of such animal before or on the day on which the notice was due to expire, and any notice which has been so renewed may be further renewed from time to time by an inspector in a similar manner and for a similar period.

(3) A notice under paragraph (1) of this Article may at any time be withdrawn by a notice (in the Form B set out in the Schedule or in a form to the like effect) signed by an inspector.

Seizure and detention of affected or suspected animals. **9.** An inspector may seize and detain an affected or suspected animal which has been dealt with in contravention of this Order.

Restrictions on the movement of other animals. **10.** (1) If an inspector has reasonable grounds for supposing that the movement of any animal, other than an affected or suspected animal, from any premises may give rise to the risk of the spread of disease he may, by notice (in the Form C set out in the Schedule or in a form to the like effect) served on the owner or person in charge of the animal, prohibit the movement of the animal off the premises, except under the authority of and in accordance with the conditions of a permit issued by an inspector.

(2) A notice served under paragraph (1) shall continue in force until withdrawn by a further notice (in the Form D set out in the Schedule or in a form to the like effect) signed by an inspector.

Carcases of affected or suspected animals. **11.** (1) A person shall not remove the carcase of an affected or suspected animal from the premises where it died or was slaughtered except under the authority of and in accordance with the conditions of a permit granted by an inspector.

(2) Where an affected or suspected animal has been slaughtered pursuant to section 17 of the Act, the carcase of such animal shall belong to the Minister.

(3) An inspector may cause the carcase of an affected or suspected animal to be buried or burnt and may use for the purpose any ground in the possession or occupation of the owner or person in charge of the animal suitable for the purpose.

Prohibition of sale, supply and use of milk. **12.** (1) No person shall—

(a) sell or supply for feeding to an animal, or  
(b) use in the manufacture of any product for sale or supply for feeding to an animal, any milk which has been produced by an affected or a suspected animal except under the authority of and in accordance with the conditions of a permit issued by an inspector.

(2) Subject to paragraph (3) of this Article, no person shall feed to an animal any milk which has been produced by an affected or a suspected animal except under the authority of and in accordance with the conditions of a permit issued by an inspector.

(3) The prohibition in paragraph (2) of this Article shall not apply to the feeding to its own calf of any milk produced by a cow.

(4) In this Article "animal" means any kind of mammal and any bird.

Cleansing and disinfection. **13.** (1) An inspector may serve on the owner or occupier of any premises on which there is or has within 56 days been an affected or a suspected animal, or the carcase of such an animal, a notice requiring him to cleanse and disinfect, with an approved disinfectant, at his own expense, and in such manner to the satisfaction of the inspector and within such period as may be specified in the notice—

(a) all or any part of the premises; and  
(b) any equipment, appliance, utensil or other thing thereon or used in connection with any such animal or carcase.

(2) Where any person on whom the notice prescribed in paragraph (1) is served fails to comply with the requirements thereof an inspector may, without prejudice to any proceedings for an offence arising out of such default, carry out or cause to be carried out such cleansing and disinfection as is required in the notice and the Minister may recover summarily the expense thereof from the owner or occupier as a simple contract debt in any Court of competent jurisdiction.

Production of permits. **14.** Where an animal is being moved under the authority of a permit issued under this Order the person in charge of the animal being so moved shall carry the permit during the authorised movement and shall, on demand made by an inspector or by a Member of the Garda Síochána, produce the permit and allow a copy or extract to be taken, and shall also, on such demand, furnish his name and address.

Compensation. **15.** (1) Where the Minister causes an affected or suspected animal to be slaughtered under the powers conferred on him by section 17 of the Act, the compensation payable by him shall be an amount equal to—

(a) where the animal was an affected animal, 50 per cent of either—  
(i) the market value of the animal, or  
(ii) 125 per cent of the average price in respect of the month which occurred two months prior to the month in which the animal was slaughtered, whichever is the less, and  
(b) where examination of samples taken from the animal slaughtered does not confirm that it was an affected animal, the market value of the animal.

(2) (a) The market value of an animal which has been or is liable to be slaughtered pursuant to section 17 of the Act shall be determined by agreement between the owner of the animal and the Minister, or, in default of such agreement, by a valuer appointed by the Minister.

(b) In the event of the applicant disputing the determination made under sub-paragraph (a) preceding, the dispute shall be referred to the decision of an arbitrator appointed by agreement between the applicant and the Minister or, in default of such agreement, appointed by the Minister, and the decision of such arbitrator shall be final and binding on both parties.

(3) Where the Minister pursuant to section 17 of the Act causes to be slaughtered an affected or suspected animal, any application for compensation under the Act as regards the animal shall be

postponed, pending the institution or determination of a prosecution for an offence in relation to the animal, and thereafter the provisions of section 58 (3) of the Act shall apply.

(4) Where an application for compensation referred to in paragraph (1) of this Article is made and there is failure by the applicant to take reasonable precautions to protect against the disease an animal to which the application relates, the Minister or arbitrator may in estimating the compensation make a deduction estimated by him to be the amount of any loss to the Exchequer or to the applicant himself arising by reason of such failure.

(5) For the purposes of this Article—

"average price" shall be the average of the sale prices of commercial grade cows and in-calf heifers intended for use in the production of milk or suckling calculated by the Minister from records at the livestock marts operated by Maynooth Livestock Sales at Maynooth and by Cork Marts Ltd. at Bandon;

"market value" shall be the price which might reasonably have been obtained for the animal at the time of determination of compensation from a purchaser in the open market as if the animal were not an affected or suspected animal.

Permits. **16.** An inspector may issue permits for the purposes of this Order, attach conditions to any such permit, vary such conditions and revoke any such permit.

*SCHEDULE*

(Article 8)

FORM A

Diseases of Animals Act, 1966

Diseases of Animals (Bovine Spongiform Encephalopathy) Order, 1989

*Notice imposing requirements in regard to an affected or suspected animal*

To.....of  
.....  
.....  
.....

I, the undersigned, being an inspector, hereby give you notice in accordance with the provisions of the above Order that, as the owner/person<sup>(1)</sup> in charge of the animal specified below, you are required—

( a ) to detain the said animal on the premises known as (insert description of premises including full postal address)

.....  
.....  
.....

except that the animal may be—

- (i) slaughtered on such premises,
- (ii) moved off such premises under the authority of a permit issued by an inspector and in accordance with any conditions subject to which the permit is issued, or
- (iii) in the case of an animal in a slaughterhouse or market, moved direct to its farm of origin under the authority of a permit issued by an inspector and in accordance with any conditions subject to which the permit is issued;

( b ) in the event of the said animal dying (otherwise than as a result of being slaughtered) on such premises, to immediately inform the District Veterinary Office of this fact and to retain the carcase of the animal and to surrender it to an inspector on request;

( c ) in the event of the said animal dying or being slaughtered on the premises—  
(i) to dispose of the carcass of the animal on the premises if so required by an inspector; and

(ii) except where it is surrendered to an inspector in accordance with paragraph (b) above, not to permit the carcass of the animal to be moved off the premises except under the authority of a permit issued by an inspector and in accordance with any conditions subject to which the permit is issued; and

( d ) in the event of the said animal being pregnant to ensure that—

(i) it is isolated from all other bovine animals on the said premises during the period of calving and for 72 hours afterwards in accommodation which has been approved by an inspector for this purpose;

(ii) its placenta, discharges and bedding are buried or burnt;

(iii) the accommodation used for its calving is cleansed and disinfected with an approved disinfectant<sup>(2)</sup> in accordance with the directions of an inspector; and

(iv) the calf is not moved off the premises except under the authority of a permit issued by an inspector and in accordance with any conditions subject to which the permit is issued.

This notice remains in force for a period of 28 days from ..... 19.... but may be renewed by a subsequent notice served by an inspector.

Breach of the requirements of this notice may constitute an offence against the Diseases of Animals Act, 1966 and render a person liable to penalties on conviction.

The animal to which this notice applies is specified in the table below.

Ear Tag Number

B

	Signed .....	(Inspector)
Name in block letters	.....	
Official Address	.....	
.....	.....	
.....	.....	
Date	.....	
.....	.....	

(1) Delete as appropriate.

(2) Approved disinfectant means a disinfectant approved by the Minister under the Diseases of Animals (Disinfectants) Order, 1975 (S.I. No. 273 of 1975) as amended by the Diseases of Animals (Disinfectants) Order, 1975 (Amendment) Order, 1978 (S.I. No. 345 of 1978).

FORM B

(Article 8)

Diseases of Animals Act, 1966

Diseases of Animals (Bovine Spongiform Encephalopathy) Order, 1989

*Withdrawal of Notice imposing requirements in regard to an affected or suspected*

*animal*

To

of

.....  
.....  
.....

I, the undersigned, being an inspector, hereby withdraw as from this .... day of ..... 19 .... the notice (Form A), signed by ..... and served on you on the .... of ..... 19.....

The animal to which the notice which is withdrawn by this notice applies is specified in the table below.

Ear Tag Number

B

	Signed
Name in block letters	.....(Inspector)
...	.....
Official Address	.....
	.....
Date	.....

FORM C  
(Article 10)  
Diseases of Animals Act, 1966  
Diseases of Animals (Bovine Spongiform Encephalopathy) Order, 1989  
*Notice to the owner or person in charge of an animal prohibiting its movements*

To  
of  
.....  
.....  
.....

I, the undersigned, being an inspector, hereby require you not to move the animal specified below from the premises known as (insert description of premises including full postal address) .....

.....  
.....

except pursuant to and in accordance with a permit granted by an inspector.

This notice remains in force until cancelled by a subsequent written notice to that effect by an inspector.

Breach of the requirements of this notice may constitute an offence against the Diseases of Animals Act, 1966 and render a person liable to penalties on conviction.

The animal to which this notice applies is specified in the table below.

Ear Tag Number

B

Signed

..... (Inspector)  
Name in block letters

.....  
Official Address

.....  
Date

FORM D  
(Article 10)  
Diseases of Animals Act, 1966  
Diseases of Animals (Bovine Spongiform Encephalopathy) Order, 1989  
*Withdrawal of Notice prohibiting movement of an animal*

To  
of

.....  
.....  
.....

I, the undersigned, being an inspector, hereby withdraw as from this .... day of  
..... 19.... the Notice (Form C) signed by  
..... and served upon you on the .... day of ..... 19....

The animal to which the notice which is withdrawn by this notice applies is  
specified in the table below.

Ear Tag Number

B

Signed

..... (Inspector)  
Name in block letters

.....

Official Address

.....

.....

Date

.....

GIVEN under my Official Seal, this 29th day of March, 1989.

MICHAEL O'KENNEDY,

Minister for Agriculture and Food.

EXPLANATORY NOTE.

This Order provides for—

( *a* ) the compulsory notification of bovine spongiform encephalopathy in bovine animals;

( *b* ) the operation of comprehensive measures and procedures for the detection and control of the disease;

( *c* ) the imposition of movement controls on affected or suspected animals;

( *d* ) the destruction of carcasses;

( *e* ) a ban on the use of milk of affected or suspected animals for animal feed;

( *f* ) the cleansing and disinfection of premises and equipment; and

( *g* ) the amount of compensation payable for slaughtered animals.