

S.I. No. 195 of 1990.

**DISEASES OF ANIMALS (BOVINE SPONGIFORM ENCEPHALOPATHY)
(AMENDMENT) (No. 2) ORDER, 1990.**

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:

1. (1) This Order may be cited as the Diseases of Animals (Bovine Spongiform Encephalopathy) (Amendment) (No. 2) Order, 1990.

(2) The collective citation "the Diseases of Animals (Bovine Spongiform Encephalopathy) Orders, 1989 and 1990" shall include this Order.

(3) The Diseases of Animals (Bovine Spongiform Encephalopathy) Orders, 1989 and 1990, shall be construed together as one.

(4) This Order shall come into operation on the 1st day of August, 1990.

2. 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;

" the disease" means bovine spongiform encephalopathy;

"identity card" means an identity card issued pursuant to Article 32 of the Bovine Tuberculosis (Attestation of the State and General Provisions) Order, 1989 (S.I. No. 308 of 1989), or an identity card issued in respect of an animal by an officer of the Minister for Agriculture and Food before the commencement of that Order;

"the Minister" means the Minister for Agriculture and Food;

"restricted place" shall be construed in accordance with Article 3 (2) of this Order.

3. (1) Where by reason of an examination of or test carried out on an animal or a carcase of an animal or for any other reason an inspector has reasonable grounds for suspecting that an affected animal is or was at any time on any land or premises he may cause a notice in the form set out in the First Schedule to this Order and relating to the land or premises to be served on the occupier thereof.

(2) Where a notice under this Article is served, the land or premises to which the notice relates shall by virtue of such service be a restricted place for the purposes of this Order, and such land or premises, and any person from time to time thereon, shall, subject to paragraph (3) of this Article, be subject to the rules set out in the Second Schedule to this Order. The said rules shall be printed on the back of the form of notice served under paragraph (1) of this Article.

(3) Where a notice under this Article is served, the owner or person in charge of any animal on the land or premises to which the notice relates shall surrender to an inspector every identity card issued in respect of that animal.

(4) An inspector may from time to time, by service of a further notice in writing on the occupier of a restricted place, amend a notice previously served under this Article on such occupier (including a notice served under this paragraph) and without prejudice to the generality of the foregoing, a notice served under this paragraph may do either or both of the following, namely;

(a) amend such notice so as to alter the limits of the relevant restricted place,

(b) provide that any of the rules set out in the Second Schedule to this Order and specified in the notice shall cease to apply to the restricted place, or to persons thereon, or shall so apply subject to such modifications as are specified in the notice.

(5) The restrictions imposed by any notice served under this Article shall remain in force until the notice is cancelled by an inspector by a written notice to that effect served on the occupier of the relevant restricted place.

(6) An inspector may issue a permit for the purposes of the Second Schedule authorising such movement as may be specified therein, and may attach conditions to any such permit (including conditions to be fulfilled after the movement concerned has been effected), vary such conditions and revoke any such permit.

(7) The requirements of, or the conditions attached to, any notice or permit served or issued under or for the purposes of this Order shall be complied with by the person on or to whom the notice or permit has been served or issued and by any person from time to time on the restricted place.

4. (1) Where the Minister causes to be slaughtered an animal, which has been in the same herd as an affected animal, by reason of that animal being in the same herd as the affected animal, the compensation payable by him shall be an amount equal to 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 (1) (b) 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 subparagraph (a) of this paragraph, 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) For the purposes of this Article "market value" shall be the price which might reasonably have been obtained for the animal at the time of its slaughter from a purchaser in the open market.

5. The Diseases of Animals (Bovine Spongiform Encephalopathy) Order, 1989 (S.I. No. 61 of 1989), is hereby amended—

(a) by the substitution of "clip, brand, tag" for "clip, tag" in Article 7 (1);

(b) by the insertion before "animal" where it first occurs in Article 15 (2) (a) of "affected or suspected";

(c) by the substitution of the following definition for the definition of "market value" in Article 15 (5):

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

(d) by the addition of the following Article after Article 16:

"Authorised Officers

17. (1) The Minister may appoint in writing such and so many of his officers or other persons as he thinks fit to be authorised officers for the purposes of this Order.

(2) A person appointed under this Article shall be furnished with a warrant of his appointment as an authorised officer and, when exercising any power conferred on an authorised officer by this Order, shall, if so requested by any person affected, produce the warrant, or a copy thereof, to that person."

Article 3 (1)

FIRST SCHEDULE

Form of Notice Declaring and Defining the Limits of a Restricted Place

Diseases of Animals Act, 1966

Diseases of Animals (Bovine Spongiform Encephalopathy) (Amendment) (No. 2) Order, 1990

Notice Declaring and Defining the Limits of a Restricted Place

To.....
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of.....
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I, the undersigned, being an inspector, hereby give you as the occupier of the undermentioned premises notice that in accordance with the provisions of the above mentioned Order, the undermentioned premises are hereby declared to be a restricted place for the purposes of the said Order. I hereby declare that this notice applies to the said premises and hereby give you notice that the said premises, and any person from time to time thereon, accordingly become subject to the Rules specified in this notice which are printed on the back hereof. Any person infringing those Rules is liable to prosecution. In those Rules so specified and printed "the restricted place" means the undermentioned premises.

This Notice remains in force in its present form until it is cancelled or varied by a subsequent written notice to that effect served by an inspector on the occupier of the said premises.

Description of Premises to which Notice relates (The Restricted Place)

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(Signed)..... (Inspector)

Name in block letters.....

Official Address.....

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Date:

Article 3 (2)

SECOND SCHEDULE

Rules referred to in Article 3

1. No animal shall be moved into or out of the restricted place except pursuant to and in accordance with a permit issued by an inspector.
2. No carcase of an animal shall be removed from the restricted place or otherwise disposed of except pursuant to and in accordance with a permit issued by an inspector and the carcase of an animal dying on the restricted place shall be disposed of in a manner specified by an inspector.
3. The occupier or person in charge of the restricted place shall immediately give notice to the District Veterinary Office in the area where the restricted place is located of
 - (a) the birth of any animal on the restricted place, and
 - (b) the death of any animal on such a place.

GIVEN under my Official Seal, this 25th day of July, 1990.

MICHAEL O'KENNEDY,

Minister for Agriculture and Food.

EXPLANATORY NOTE.

This Order provides for the imposition of controls on the movement of bovine animals into or out of holdings on which cases of Bovine Spongiform Encephalopathy occurred. It also lays down the mode of assessment of compensation for animals slaughtered and effects technical amendments to the Diseases of Animals (Bovine Spongiform Encephalopathy) Order, 1989.