



AN BILLE UM GHALAIR AINMHITHE (LEASÚ), 2001
DISEASES OF ANIMALS (AMENDMENT) BILL, 2001

Mar a tionscnaíodh
As initiated

ARRANGEMENT OF SECTIONS

Section

1. Definition.
2. Authorised officers.
3. Dealers.
4. Order of 1956.
5. Confirmation of Orders and Regulations.
6. Miscellaneous amendments to Principal Act.
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SCHEDULE

MISCELLANEOUS AMENDMENTS TO PRINCIPAL ACT

ACTS REFERRED TO

Animal Remedies Act, 1993
Diseases of Animals Act, 1966
European Communities Act, 1972

1993, No. 23
1966, No. 6
1972, No. 27



AN BILLE UM GHALAIR AINMHITHE (LEASÚ), 2001
DISEASES OF ANIMALS (AMENDMENT) BILL, 2001

BILL

entitled

5 AN ACT TO AMEND AND EXTEND THE DISEASES OF ANIMALS ACTS, 1966 TO 2000.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—In this Act “Principal Act” means the Diseases of Animals Act, 1966. Definition.

10 2.—The following section is inserted after section 17 of the Principal Act: Authorised officers.

“Authorised officers.

17A.— (1) In this section—

“authorised officer” means—

(a) an inspector of the Minister,

15 (b) any other officer of the Minister who is authorised for the purposes of section 25 (3),

20 (c) an authorised officer authorised under section 10 of the Animal Remedies Act, 1993, or

(d) such persons or such class of persons appointed under subsection (2);

‘product’ means a product derived from an animal or poultry.

25 (2) The Minister may appoint such and so many persons or such class of persons as he or she thinks fit to be authorised officers for the purposes of some or all of the provisions of this section.

30 (3) An appointment under subsection (2) may be expressed to authorise a person or a class of person to exercise some or all of the powers conferred on an authorised officer under this section in a particular part of the State.

(4) An authorised officer who is not a member of the Garda Síochána or the Defence Forces or an officer of Customs and Excise shall be issued with a warrant of his or her appointment and, when exercising any power conferred on him or her as an authorised officer, shall, if requested by a person affected, produce the warrant, or if he or she has been issued with a warrant of appointment under this Act or section 10 of the Animal Remedies Act, 1993, that warrant, to that person.

(5) The Minister may at any time revoke an appointment as an authorised officer, whether or not the appointment was for a fixed period.

(6) An appointment as an authorised officer shall cease—

(a) where the Minister revokes it pursuant to subsection (5),

(b) where it is for a fixed period, on the expiry of that period, or

(c) where the person appointed is an officer of the Minister or an officer of Customs and Excise or a member of the Garda Síochána or Defence Forces, upon his or her ceasing to be such an officer or a member.

(7) Nothing in subsection (6) shall be construed so as to prevent the Minister from re-appointing as an authorised officer a person to whom that subsection relates.

(8) Where an authorised officer has reasonable cause to suspect that—

(a) subject to subsection (9), an animal, poultry, a product, fodder or litter is or may be infected with a disease or has had contact with an animal, poultry, a product, fodder or litter that is infected or may be infected with a disease,

(b) an animal, poultry, a product, fodder or litter has been moved other than in accordance with this Act or a requirement or direction of an authorised officer under subparagraph (ix) or (x),

(c) an animal, poultry, a product, fodder or litter has come from or through a place where there is infection with a disease or where it may exist (either within or outside the State),

(d) a person is refusing or has refused to comply with a requirement or direction of an authorised officer under subparagraph (ix) or (x),

(e) any land or premises, vehicle, vessel, aircraft or container contains or has recently contained such an animal, poultry, a product, fodder or litter,

(f) any offence is being or has been committed under this Act, or under regulations made under section 3 of the European Communities Act, 1972, relating to animals, poultry, products, fodder or litter,

such officer may—

(i) enter and search any land or premises,

(ii) stop any person, vehicle, vessel, aircraft or container,

(iii) board and search any vehicle, vessel, aircraft or container,

(iv) search the person, where the authorised officer considers it necessary,

(v) examine such animal, poultry, product, fodder, litter, vehicle, vessel, aircraft or container,

(vi) seize and detain (for so long as is necessary) any such animal, poultry, product, fodder, litter, vehicle, vessel, aircraft or container,

(vii) require the production of any relevant document or thing relating to the animal, poultry, product, fodder, litter, vehicle, vessel, aircraft or container,

(viii) retain any such document or thing (for so long as is necessary),

(ix) dispose of, or require the owner or person in charge of or in possession of, the animal, poultry, product, fodder or litter to dispose of it in such manner (including slaughter) as the authorised officer sees fit,

(x) give such directions to, or request such information of, such person regarding the animal, poultry, product, fodder, litter, vessel, vehicle, aircraft or container as he or she considers necessary,

(xi) require the name and address of the person and the name and

address of any other relevant person including the person to whom the animal, poultry, product, fodder or litter is being delivered or who is causing it to be delivered, 5

(xii) require of the person the ownership, identity and origin of the animal or poultry, product, fodder or litter,

(xiii) mark or otherwise identify such animal, poultry, product, fodder or litter. 10

(9) The power conferred on an authorised officer under subsection (8)(a) may be exercised only by an inspector of the Minister. 15

(10) An authorised officer shall not enter, other than with the consent of the occupier, a private dwelling, unless he or she has obtained a search warrant under this section.

(11) An authorised officer may use reasonable force, if necessary, in the exercise of his or her powers under this section. 20

(12) An authorised officer when exercising any powers under this section 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 those powers. 25

(13) An authorised officer shall not be liable in any proceedings for anything done in the purported exercise of his or her powers under this section if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it. 30

(14) A person who— 35

(a) intentionally obstructs an authorised officer in the exercise of any of his or her powers under this section,

(b) fails, without reasonable excuse, to comply with a requirement or direction made by an authorised officer in the performance of those powers, or 40

(c) in purporting to give information required by an authorised officer for the performance of those powers— 45

(i) makes a statement which he or she knows to be false in a material particular or recklessly makes a statement which is false in a material particular, or 50

(ii) intentionally fails to disclose any material particular,

is guilty of an offence.

(15) A person guilty of an offence under subsection (14) shall be liable—

(a) on summary conviction, to a fine not exceeding £1,500 or imprisonment for a term not exceeding 6 months or both, or

(b) on conviction on indictment, to a fine not exceeding £100,000 or imprisonment for a term not exceeding 5 years or both.

(16) Where a member of the Garda Síochána has reasonable cause to suspect that a person has committed an offence under subsection (14), the member may without warrant arrest the person.

(17) 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) that there is on any land or in any premises, vehicle, vessel, aircraft or container an animal, poultry, a product, fodder or litter which is infected or may be infected with a disease or is at risk of being so infected,

(b) that any animal, poultry, product or any fodder or litter has come from or through a place where infection is or may exist, or

(c) there is evidence of an offence under this Act or regulations made under section 3 of the European Communities Act, 1972, relating to animals, poultry, products, fodder or litter, therein or thereon,

the judge may issue a search warrant.

(18) A search warrant issued under this section shall be expressed and operate to authorise a named authorised officer, accompanied by such authorised officers, members of the Garda Síochána and officers of Customs and Excise as the named officer thinks necessary, at any time or times, within one month from the date of issue of the warrant, on production if so requested of the warrant, to enter (if necessary by force) the land, premises or vehicle, vessel, aircraft or container named in the warrant.

(19) Where any premises, land or vehicle, vessel, aircraft or container is entered pursuant to a warrant issued under this section, an authorised officer so entering may exercise all or any of the powers conferred on an authorised officer under this section.”.

Dealers.

3.—The following section is inserted after section 29 of the Principal Act:

“Dealers.

29A.—(1) In this section ‘dealer’ means a person who purchases an animal or poultry and sells and supplies the animal or poultry to another person within a period of 100 days. 5

(2) The Minister may by order—

(a) regulate the possession, purchase, sale or supply of animals and poultry, or animals and poultry of a particular class or description, by dealers for the purpose of preventing the outbreak or spread of a disease or for the purpose of preventing injury or suffering to animals or poultry, 10 15

(b) provide for the approval and registration of dealers and dealers premises.

(3) Subject to this section, a person who purchases an animal shall not sell or supply that animal while it is alive for a period of not less than 30 days and, during that period, shall hold the animal on land in his or her ownership or under his or her control. 20

(4) Subsection (3) shall have effect only during such period and in respect of the whole of or such part or parts of the State as may be specified by the Minister by order, where he or she considers it reasonably necessary to avoid the outbreak or spread of disease or diseases of a particular class or description. 25 30

(5) The Minister or an officer of the Minister may issue a permit to a person or dealer or a class of person or dealer permitting an animal to be sold or supplied within the period referred to in subsection (3). 35

(6) In this section “sell” includes offer, expose or keep for sale, invite an offer to buy, or distribute for reward and cognate words shall be construed accordingly.”.

Order of 1956.

4.—(1) The Order of 1956 is confirmed. 40

(2) A person who contravenes or fails to comply with, or aids, abets, counsels or procures the contravention of or failure to comply with the Order of 1956 or any licence granted or notice served under that Order is guilty of an offence and shall be liable—

(a) on summary conviction, to a fine not exceeding £1,500 or imprisonment for a term not exceeding 6 months, or to both, or 45

(b) on conviction on indictment, to a fine not exceeding £100,000 or imprisonment for a term not exceeding 5 years, or to both. 50

(3) Article 52 of the Order of 1956 is revoked.

(4) In this section “Order of 1956” means the Foot-and-Mouth Disease Order, 1956 (S.I. No. 324 of 1956) (as amended or extended by any subsequent order).

5 **5.**—The following are confirmed as on and from the date upon which they purported to come into operation —

Confirmation of
Orders and
Regulations.

- (a) the Foot and Mouth Disease (Hay, Straw and Peat Moss Litter) Order, 2001 (S.I. No. 49 of 2001),
- 10 (b) the Foot and Mouth Disease (Prohibition of Exhibition and Sale of Animals) Order, 2001 (S.I. No. 50 of 2001),
- (c) the Foot and Mouth Disease (Restriction of Import of Vehicles, Machinery and Other Equipment) Order, 2001 (S.I. No. 51 of 2001),
- 15 (d) the Foot and Mouth Disease (Restriction of Import of Horses and Greyhounds) Order, 2001 (S.I. No. 52 of 2001),
- (e) the European Communities (Import Restrictions (Foot and Mouth Disease)) Regulations, 2001 (S.I. No. 55 of 2001),
- 20 (f) the Diseases of Animals (Restriction of Movement of Animals) Order, 2001 (S.I. No. 56 of 2001),
- (g) the Foot and Mouth (Controlled Area) (No 1) Order, 2001 (S.I. No. 59 of 2001),
- (h) the Foot and Mouth (Restriction on Movement) (No. 2) Order, 2001 (S.I. No. 60 of 2001),
- 25 (i) the Diseases of Animals (Restriction of Movement of Animals) Order, 2001 (Amendment) Order, 2001 (S.I. No. 61 of 2001),
- (j) the Foot and Mouth (Restriction on Movement) (No. 3) Order, 2001 (S.I. No. 62 of 2001), and
- 30 (k) the Foot and Mouth (Restriction on Movement) (No. 4) Order, 2001 (S.I. No. 63 of 2001).

6.—The Principal Act is amended as set out in the Schedule to this Act.

Miscellaneous
amendments to
Principal Act.

35 **7.**—(1) On a conviction on indictment under the Principal Act or *section 4* of this Act the court may order the forfeiture to the Minister of any vehicle, vessel, aircraft or container involved in the commission of the offence.

Forfeiture.

40 (2) A court shall not order anything to be forfeited under this section if a person claiming to be the owner of it or otherwise interested in it applies to be heard by the court, unless the opportunity has been given to him or her to show cause why the order should not be made.

(3) An order under this section shall not take effect until the ordinary time for instituting an appeal against the conviction or order

concerned has expired or, where such an appeal is instituted, until it or any further appeal is finally decided or abandoned or the ordinary time for instituting any further appeal has expired.

(4) Anything ordered to be forfeited to the Minister under this section shall be disposed of as the Minister sees fit and any moneys arising from such disposal shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Finance may direct. 5

Disqualification
from keeping
animal, etc.

8.—(1) Any person who is convicted on indictment of an offence under the Principal Act or *section 4* of this Act may, in addition to the penalty imposed thereunder — 10

(a) be disqualified from keeping, dealing in or having charge or control, directly or indirectly, of either or both any animal or class or classes of animal, and

(b) be disqualified from working in or having charge or control of any one or more of the following, that is to say, the slaughter, manufacture, importation, preparation, handling, storage, transport, exportation, distribution, sale or supply of either or both food intended for human consumption and food intended for animal consumption or of any class or classes of either or both such foods, 15 20

for such period, including where appropriate for the life of the person, as the court thinks fit.

(2) In this section “control” includes, in relation to a body corporate, the power of the person concerned to secure, by means of holding shares or the possession of voting power in or in relation to that or any other body corporate, or by virtue of powers conferred by articles of association or other document regulating that or any other body corporate, that the affairs of the first-mentioned body corporate are conducted in accordance with the wishes of that person. 25 30

Offence by body
corporate.

9.—(1) Where an offence under the Principal Act or *section 4* of this Act is committed by a body corporate or by a person acting on behalf of a body corporate and is provided to have been so committed with the consent, connivance or approval of, or to have been facilitated by any neglect on the part of any director, manager, secretary or any other officer of such body or a person who was purporting to act in any such capacity, such person is also guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence. 35

(2) In this section, a reference to the contravention of a provision includes, where appropriate, a reference to a refusal, or a failure, to comply with that provision. 40

Presumption in
relation to ear-
tagging.

10.—Where an ear-tag is required under an order made under the Principal Act or regulations made under *section 3* of the European Communities Act, 1972, to be attached to an animal, and the ear-tag is not attached to the animal or has been tampered with or has been replaced with another ear-tag, it shall be presumed, until the contrary is shown, in any proceedings, for a contravention of the order or regulation in which it is alleged against the accused that he or she unlawfully brought the animal into the State from a place outside the State, or has unlawfully removed, tampered with or has switched 45 50

7. In section 28, by the insertion after “For the purposes of preventing the” of “outbreak or”.

8. In section 42 (6), by the substitution for “conclusive evidence” of “evidence, until the contrary is shown,”.

9. In section 49 (1)— 5

(a) in paragraphs (a) and (h), by the deletion of “, with intent to evade this Act or an order of the Minister or a regulation of a local authority”,

(b) in paragraph (b), by the deletion of “, with the like intent”, and 10

(c) in paragraph (c), by the deletion of “untruly”.

10. In section 52—

(a) in subsection (1), by the substitution for “the owner or person in charge of an animal or bird” of “a person”, and

(b) by the deletion of subsection (3). 15

11. In the Second Schedule—

(a) in paragraph 1, by the insertion after “infecting animals or poultry” of “or animals or poultry capable of being infected”,

(b) in paragraph 14, by the insertion after “animals or birds” of “or animals or birds at risk of catching a disease”, and 20

(c) in paragraph 15, by the insertion after “preventing” of “an outbreak”.