



STATUTORY INSTRUMENTS

S.I. No. 133 of 2008

EUROPEAN COMMUNITIES (BLUETONGUE) REGULATIONS 2008
ARRANGEMENT OF REGULATIONS

(Prn. A8/0595)

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I, MARY COUGHLAN, Minister for Agriculture, Fisheries and Food, in exercise of the powers conferred on me by Regulation 3 of the European Communities Act 1972 (No. 27 of 1972), for the purpose of giving effect to Council Directive No. 2000/75/EC of 20 November 2000¹ and giving full effect to Commission Regulation (EC) No. 1266/2007 of 26 October 2007² as amended by Commission Regulation (EC) No. 289/2008 of 31 March 2008³ Commission Regulation (EC) No. 384/2008 of 29 April 2008⁴ and Commission Regulation (EC) No 394/2008⁵ hereby make the following regulations:

Citation

1. These Regulations may be cited as the European Communities (Bluetongue) Regulations 2008.

Interpretation

2. (1) In these Regulations—

“authorized insecticide” means—

- (a) an authorized animal remedy (within the meaning of the European Communities (Animal Remedies) (No. 2) Regulations 2007 (S.I. No. 786 of 2007)) approved for the purposes of these Regulations, or
- (b) a biocidal product approved for use as an insecticide in accordance with the European Communities (Authorization, placing on the market, use and control of biocidal products) Regulations 2001 (S.I. No. 625 of 2001) approved for the purposes of these Regulations;

“authorized officer” means—

- (a) an authorized officer within the meaning of section 17A (inserted by the Diseases of Animals (Amendment) Act 2001 (No. 3 of 2001)) of the Diseases of Animals Act 1966,
- (b) a member of the Garda Síochána, or
- (c) an officer of Customs and Excise;

“Bluetongue Directive” means Council Directive No. 2000/75/EC of 20 November 2000;

¹O.J. No. L 327 of 20.11.2000, p. 74.

²O.J. No. L 283 of 27.10.2007, p. 43.

³O.J. No. L 89 of 01.04.2008, p. 3.

⁴O.J. No. L 116 of 30.04.2008, p. 3.

⁵O.J. No. L117 of 01.05.2008, p. 3.

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 9th May, 2008.*

“Bluetongue Regulation” means Commission Regulation (EC) No. 1266/2007 of 26 October 2007 as amended by Commission Regulation (EC) No. 289/2008 of 31 March 2008; Commission Regulation (EC) No. 384/2008 of 29 April 2008 and Commission Regulation (EC) No. 394/2008 of 30 April 2008.

“inspector” means an inspector of the Minister under the Diseases of Animals Act 1966 (No. 6 of 1966);

“Minister” means Minister for Agriculture, Fisheries and Food;

“movement notice” means a notice under Regulation 3, 4, 5, 6 or 9;

“premises” includes land (whether with or without buildings).

(2) A word or expression that is used in these Regulations and is also used in the Bluetongue Directive or Bluetongue Regulation has, in these Regulations, the same meaning as it has in the Bluetongue Directive or Bluetongue Regulation.

Notification

3. (1) A person who, by reason of an examination, laboratory test result or otherwise, is aware or suspects or who should reasonably be aware or suspect that a ruminant is or may be affected with bluetongue shall immediately notify the Minister of the fact or suspicion by contacting the District Veterinary Office of the Department of Agriculture, Fisheries and Food in whose functional area the ruminant is situate.

(2) A person shall not move or cause or permit another person to move a ruminant, semen, ova or embryos onto or from a premises subject to notification under paragraph (1) except under and in accordance with a movement notice.

(3) A person shall not have in his or her possession or under his or her control a ruminant, semen, carcass, ova or embryo that has been moved in contravention of paragraph (2) or Regulation 4, 5, 6, 7, 8 or 9.

Suspected bluetongue outbreak premises

4. (1) An inspector shall, on receipt of notification under Regulation 3 or if he or she has other reasonable cause to believe that a ruminant is or may be affected with bluetongue disease, by notice in writing, declare the premises to be a suspected bluetongue outbreak premises.

(2) A notice under paragraph (1) remains in force until withdrawn by a further notice by an inspector.

(3) A notice under paragraph (1)—

(a) shall delimit the premises to which the notice relates,

(b) may relate to other premises delimited in the notice if the inspector has reasonable cause to suspect (having regard to Article 4(4) of the Bluetongue Directive or otherwise) that a ruminant on the premises is

at risk of, affected with or suspected of being affected with bluetongue disease, and

(c) may be varied by a further notice.

(4) A person shall not move or cause or permit another person to move a ruminant, semen, ova or embryos onto or from a suspected bluetongue outbreak premises except under and in accordance with a movement notice.

(5) The owner or person in charge of a suspected bluetongue outbreak premises shall—

(a) confine a ruminant indoors when the vector is active, if possible,

(b) treat a ruminant, building, other structure and surroundings regularly with an authorized insecticide,

(c) take all reasonable measures to ensure that a wild animal does not have access to the premises or a building or structure on the premises, and

(d) deal with the carcass of a ruminant that dies or is killed on the premises (other than an establishment used for the slaughter of animals (within the meaning of the European Communities (Food and Feed Hygiene) Regulations 2005 (S.I. No. 710 of 2005)) in accordance with Regulation No. 1774/2002/EC of the European Parliament and of the Council of 3 October 2002,

in accordance with the direction (if any) of an inspector.

Confirmed bluetongue outbreak premises

5. (1) If it is confirmed that a ruminant is affected with bluetongue on a premises, an inspector shall, by notice in writing, declare the premises to be a confirmed bluetongue outbreak premises.

(2) A notice under paragraph (1) remains in force until withdrawn by a further notice by an inspector.

(3) A notice under paragraph (1)—

(a) shall delimit the premises to which the notice relates,

(b) may relate to other premises delimited in the notice if it is confirmed or suspected that a ruminant on the premises is or may be affected with bluetongue disease, and

(c) may be varied by a further notice.

(4) A person shall not move or cause or permit another person to move a ruminant, semen, ova or embryos onto or from a confirmed bluetongue outbreak premises except under and in accordance with a movement notice.

(5) The owner or person in charge of a confirmed bluetongue outbreak premises shall—

- (a) confine a ruminant indoors when the vector is active, if possible,
- (b) treat a ruminant, building, other structure and surroundings regularly with an authorized insecticide,
- (c) take all reasonable measures to ensure that a wild animal does not have access to the premises or a building or structure on the premises, and
- (d) deal with the carcass of a ruminant (including a ruminant to which paragraph (6) refers) that dies or is killed on the premises (other than an establishment used for the slaughter of animals (within the meaning of the European Communities (Food and Feed Hygiene) Regulations 2005 (S.I. No. 710 of 2005)) in accordance with Regulation No. 1774/2002/EC of the European Parliament and of the Council of 3 October 2002,

in accordance with the direction (if any) of an inspector.

(6) An inspector may direct the slaughter of such ruminants that are on a confirmed bluetongue outbreak premises as he or she deems necessary to eradicate, or prevent the spread of bluetongue disease.

Control zone

6. (1) The Minister shall, following confirmation that bluetongue virus is circulating in an area, by notice establish a zone of at least 20 kilometres radius around a confirmed bluetongue outbreak premises (“control zone”).

(2) A notice under paragraph (1) remains in force until withdrawn by a further notice by the Minister.

(3) A notice under paragraph (1)—

- (a) shall delimit the control zone to which the notice relates,
- (b) shall include the confirmed bluetongue outbreak premises, and
- (c) may be varied by a further notice.

(4) A person shall not move or cause or permit another person to move a ruminant, semen, ova or embryos onto or from a premises in a control zone except under and in accordance with a movement notice.

(5) The owner or person in charge of a premises located in a control zone shall—

- (a) confine a ruminant indoors when the vector is active, if possible,
- (b) treat a ruminant, building, other structure and surroundings regularly with an authorized insecticide,
- (c) take all reasonable measures to ensure that a wild animal does not have access to the premises or a building or structure on the premises, and
- (d) deal with the carcass of a ruminant that dies or is killed on the premises (other than an establishment used for the slaughter of animals (within the meaning of the European Communities (Food and Feed Hygiene) Regulations 2005 (S.I. No. 710 of 2005)) in accordance with Regulation No. 1774/2002/EC of the European Parliament and of the Council of 3 October 2002,

in accordance with the direction (if any) of an inspector.

(6) If a premises is located partly in a control zone and partly outside the zone, the whole premises is considered to be located in the control zone.

(7) If a control zone being established, for the purposes of the Bluetongue Directive, by the competent authorities in Northern Ireland in that jurisdiction would extend into part of the territory of the State, the Minister may establish a control zone in that part of the State.

Protection and surveillance zones (“restricted zones”)

7. (1) The Minister shall, following confirmation that bluetongue virus is circulating in an area, by notice establish a zone with a radius of at least 150 kilometres around a confirmed bluetongue outbreak premises (“restricted zone”) and may, in accordance with the Bluetongue Directive and the Bluetongue Regulation, divide that zone into a protection zone and a surveillance zone.

(2) A premises (other than a premises to which Regulation 6(6) refers) that is located partly in a protection zone and partly outside a protection zone is considered to be wholly located in the protection zone.

(3) A premises (other than a premises to which paragraph (2) refers) that is located partly in a surveillance zone and partly outside a surveillance zone is considered to be wholly located in the surveillance zone.

(4) A notice under paragraph (1) remains in force until withdrawn by a further notice by the Minister.

(5) A notice under paragraph (1)—

- (a) shall delimit the restricted zone, protection zone or surveillance zone to which the notice relates,

(b) shall include any conditions that the Minister may determine having regard to the Bluetongue Regulation and the objectives of the Bluetongue Directive (and, in particular, Article 8(1) of the Bluetongue Directive), and

(c) may be varied by a further notice.

(6) If a protection zone or surveillance zone being established for the purposes of the Bluetongue Directive, by the competent authorities in Northern Ireland in that jurisdiction would extend into part of the territory of the State, the Minister may establish a protection zone or surveillance zone in that part of the State.

Movements within or from a restricted zone (“restricted zones”)

8. (1) A person shall not move (including import or export) or cause or permit another person to move a ruminant, semen, ova or embryos within or from a restricted zone, unless—

(i) in the case of a movement within a restricted zone or between restricted zones where the same bluetongue virus serotype is circulating, the movement is in compliance with Article 7 of the Bluetongue Regulation,

(ii) in the case of movement of a ruminant, semen, ova or embryos referred to in Article 8(1) of the Bluetongue Regulation, the movement is in compliance with that provision and Article 8(3) of the Bluetongue Regulation,

(iii) in the case of a ruminant being moved for slaughter, the movement is in compliance with Article 8(4) and (5) of the Bluetongue Regulation, or

(iv) in the case of transit of a ruminant through a restricted zone, the transit is in compliance with Article 9 of the Bluetongue Regulation.

(2) The Minister may by notice designate that the slaughter of a ruminant referred to in paragraph (1)(iii) takes place at a designated establishment used for the slaughter of animals (within the meaning of the European Communities (Food and Feed Hygiene) Regulations 2005 (S.I. No. 710 of 2005)).

(3) By way of derogation from paragraph (1)(ii) and until 31 December 2008, the importation from a restricted zone of animals which are covered by the exemption provided for in Article 8(1) of the Commission Regulation is prohibited except in the case of those animals that

(a) (i) are less than 90 days old, and

(ii) have been kept since birth in vector protected confinement and,

(iii) the tests referred to in points 1, 3 and 4 of Section A of Annex 111 of the Commission Regulation have been carried out on

samples taken not earlier than seven days before the date of the movement, or

- (b) comply with the provisions of points 5, 6 or 7 of Section A of the Commission Regulation or
- (c) in the case of female animals, comply with the provisions of Commission Regulation 384/2008 of 29 April 2008.

(4) The Minister may by direction impose conditions relating to the treatment, housing, isolation, testing or movement of animals that are imported into the State from a restricted zone or from a member state where a restricted zone has been established.

Movement notice

9. (1) The Minister or an authorized officer may, having regard to the Bluetongue Regulation and the objectives of the Bluetongue Directive, by notice, permit the movement of a ruminant, semen ova or embryos within or from a zone or onto or from a premises (“movement notice”).

(2) A movement notice may relate to ruminants, semen, ova or embryos generally or to ruminants, semen, ova or embryos of a particular class or description.

(3) A movement notice is subject to any conditions that the Minister or an authorized officer may determine and a condition may continue to apply after the animal is moved.

(4) The Minister or an authorized officer may vary a condition of a movement notice or withdraw the notice.

Vaccination

10. (1) A person shall not vaccinate against bluetongue except under and in accordance with a notice issued by the Minister (“vaccination notice”).

(2) A person shall not vaccinate against bluetongue in a surveillance zone.

(3) A vaccination notice may require a person to vaccinate, or permit an authorized officer to vaccinate, an animal or an animal of a particular species, class or description against bluetongue.

Destruction and disposal of ruminants, etc

11. (1) The Minister may kill, slaughter or destroy, require or cause to be killed, slaughtered or destroyed a ruminant, semen, ova, embryo or other thing that, in the opinion of the Minister-

- (a) is at risk of, may be or is suspected of being affected with bluetongue,
- (b) is affected with bluetongue,
- (c) is a vector for bluetongue disease,
- (d) it is necessary, ancillary or supplementary to—

- (i) preventing the risk or spread of bluetongue, or
 - (ii) diagnosing or controlling (including eradicating) bluetongue,
- (e) is required under the Bluetongue Regulation to be accompanied by a certificate or other document and is not accompanied by the certificate or other document, or
- (f) is moved contrary to these Regulations.

(2) If the Minister kills, slaughters or destroys or causes to be killed, slaughtered or destroyed a ruminant, semen, ova, embryo or other thing in accordance with paragraph (1), he or she shall dispose or cause to be disposed of the ruminant, semen, ova, embryo or other thing in such a manner as he or she considers appropriate.

(3) The cost (including ancillary costs) of killing, slaughtering or destroying or disposing of a ruminant, semen, ova, embryo or other thing referred to in paragraph (1)(e) and (f) may be recovered by the Minister as a simple contract debt in a court of competent jurisdiction or by deducting the sum from any moneys due or becoming due to the owner or person in charge of the ruminant, semen, ova, embryo or other thing.

Compensation

12. (1) The Minister may pay compensation for a ruminant, semen, ova, embryo or other thing (other than a ruminant, semen, ova, embryo or other thing to which Regulation 11(3) applies killed, slaughtered or destroyed under Regulation 11 including a ruminant that dies before being killed, slaughtered or destroyed.

(2) Compensation shall not exceed the open market value of a ruminant, semen, ova, embryo or other thing immediately before destruction as if not affected with bluetongue disease.

(3) If a person is convicted of an offence under these Regulations in relation to a ruminant, semen, ova, embryo or other thing killed, slaughtered or destroyed under Regulation 11, as a statutory consequence of conviction, he or she is not entitled to compensation in respect of the ruminant, semen, ova, embryo or other thing.

(4) The Minister may postpone consideration or determination of an application for compensation pending the institution or determination of a prosecution for an offence under these Regulations in relation to a ruminant, semen, ova, embryo or other thing that is the subject of the application.

(5) In the interest of controlling bluetongue, minimising the risk of bluetongue and curtailing the spread of bluetongue, the determination of compensation or ownership of a ruminant, semen, ova, embryo or other thing shall not delay the killing, slaughter, destruction or disposal of the ruminant, semen, ova, embryo or other thing which shall proceed under the direction of an authorized officer prior to the determination.

Valuers

13. (1) The Minister may appoint such and so many persons who, in his or her opinion, have experience in valuing ruminants, semen, ova, embryo or other thing or knowledge of the current value of ruminants, semen, ova, embryo or other thing relating to a ruminant to carry out valuations of a ruminant, semen, ova, embryo or other thing for the purposes of assessing compensation (“valuer”).

(2) An officer of the Minister may furnish a valuer with a warrant of his or her appointment and, if requested by a person affected, the valuer shall produce the warrant for inspection.

(3) The owner or person in charge of a ruminant, semen, ova, embryo or other thing subject to a claim for compensation under Regulation 12, his or her employees, servants or agents shall give all assistance required and co-operate with a valuer or a person accompanying a valuer.

(4) A valuer or an arbitrator appointed under Regulation 14 shall not act in a specific case if he or she considers that there is a conflict of interest, or the applicant for compensation—

(a) is a member of the valuer’s or arbitrator’s family or other relative,

(b) is a person with whom the valuer or arbitrator has a business relationship, or

(c) is a person with whom the valuer or arbitrator has, or has had, a social relationship, the nature of which may call into question the valuer’s or arbitrator’s independence or objectivity.

(5) Subject to paragraph (9), a valuer or arbitrator is independent in the exercise of his or her functions.

(6) If a valuer (including a valuer to whom paragraph (8) refers) values a ruminant, semen, ova, embryo or other thing he or she shall immediately send a written report, in a form (if any) that the Minister may determine, to the owner and the Minister.

(7) If the owner of a ruminant, semen, ova, embryo or other thing or the Minister is dissatisfied with the determination of a valuer, he or she may within 7 days of the date of the report referred to in paragraph (6), request a second valuation.

(8) If a person requests a second valuation under paragraph (7), the valuation shall be carried out by a valuer chosen by the Minister.

(9) The Minister may issue guidelines, including guidelines relating to the maximum compensation payable, relating to valuations and a valuer or an arbitrator appointed under Regulation 14 shall have regard to the guidelines.

Arbitration

14. (1). If the owner of a ruminant, semen, ova, embryo or other thing or the Minister is dissatisfied with the determination of a valuer appointed under Regulation 13(8), he or she may, within 7 days of the date of the valuer's report, request that the matter be settled by arbitration.

(2) Where the applicant for compensation requests arbitration, the arbitrator shall be chosen from a list of at least three persons furnished to him or her by the Minister.

(3) The Arbitration Acts 1954 to 1998 apply to arbitration under this Regulation.

(4) The determination of an arbitrator is binding on both parties save that, on a point of law, either party may appeal to the High Court.

Abatement of compensation

15. The Minister may reduce or refuse to pay an amount of compensation established under these Regulations, if in his or her opinion—

- (a) the applicant failed to take reasonable measures to alleviate the risk, or spread, of disease,
- (b) the applicant failed to take appropriate (if any) bio-security measures including measures prescribed in an Order or specified in a notice under the Diseases of Animals Act 1966 (No. 6 of 1966),
- (c) the applicant has failed to comply, in a material way, with a relevant code of practice,
- (d) the applicant has obstructed or impeded, or failed to give assistance to, an authorized officer, valuer or arbitrator,
- (e) the applicant is not the owner of the ruminant, semen, ova, embryo or other thing to which the application relates,
- (f) the applicant in making an application for compensation, fails to give information required or gives information that is false or misleading in a particular respect,
- (g) the applicant has contravened the Regulations, or
- (h) the ruminant, semen, ova, embryo or other thing to which an application for compensation relates has been imported, sold, supplied, moved or otherwise dealt with in contravention of the Bluetongue Regulation or these Regulations.

Functions of authorized officers

16. (1) Without prejudice to paragraph (2) and (3), an authorized officer may enter a premises for the purpose of monitoring the risk or spread of the blue-tongue virus, to carry out surveillance or to take samples for testing for the detection of bluetongue virus or antibodies of that virus.

- (2) If an authorized officer has reasonable cause to suspect that—
- (a) a ruminant, carcass, the product or by-product of a ruminant or a vehicle or trailer used in connection with the transport of a ruminant is present, has been present or may be present on a premises,
 - (b) a ruminant, carcass or the product or by-product of a ruminant is or has been kept, processed, stored or otherwise dealt with on a premises,
 - (c) equipment, plant or machinery used in connection with a ruminant, carcass or the product or by-product of a ruminant has been, is or may be on a premises,
 - (d) bluetongue disease or a vector is or may be present on a premises, or
 - (e) a document relating to a thing referred to in paragraph (a), (b), (c) or (d) is present, was present or may be present on a premises,

the authorized officer may enter the premises and he or she may—

- (i) search the premises,
- (ii) stop a person, vehicle, vessel or container,
- (iii) board and search a vehicle, vessel or container,
- (iv) examine a ruminant, carcass, the product or by-product of a ruminant, vehicle, vessel, container, equipment, machinery or other thing,
- (v) take, without payment, samples of a ruminant, carcass, the product or by-product of a ruminant, or other thing or an article, substance or liquid as he or she may reasonably require and carry out or cause to be carried out on a sample such tests, analyses, examinations or inspections as he or she considers necessary or expedient,
- (vi) require the production of a document (including a document in non-legible form in a legible form) or thing relating to a ruminant, carcass, the product or by-product of a ruminant, vehicle, vessel, container, equipment, machinery or other thing,
- (vii) retain a document or thing (for so long as is necessary),
- (viii) make a record using any means including writing, photography or video,

- (ix) give a direction to, or request information of, a person regarding a ruminant, carcass, the product or by-product of a ruminant, vector, vessel, vehicle, container, machinery, equipment, premises or other thing as he or she considers necessary,
 - (x) require the name and address of a person and the name and address of any other person including the owner of, or person to whom a ruminant, carcass, the product or by-product of a ruminant or other thing is being delivered or who is causing it to be delivered,
 - (xi) require of a person the ownership, identity and origin of the ruminant, carcass, the product or by-product of a ruminant, vessel, vehicle, container, equipment, machinery or other thing,
 - (xii) require a person in charge or control of a vessel, vehicle or container to refrain from moving it,
 - (xiii) carry out surveys or other investigations,
 - (xiv) set traps, or
 - (xv) mark or otherwise identify a ruminant, carcass, the product or by-product of a ruminant, vessel, vehicle, machinery, equipment or other thing or a sample taken under subparagraph (v).
- (3) If an authorized officer has reasonable cause to suspect that—
- (a) an offence is being or has been committed under these Regulations,
 - (b) evidence of an offence or contravention to which paragraph (a) relates may be, is or has been on a premises—

the authorized officer may, in addition to the powers exercisable by him or her under paragraph (2)—

- (i) search a person, where the authorized officer considers it necessary,
 - (ii) seize and detain, a ruminant, carcass, the product or by-product of a ruminant, vessel, vehicle, container, equipment, machinery or other thing, or
 - (iii) dispose of, or require the owner or person in charge of or in possession of a ruminant, carcass, the product or by-product of a ruminant or other thing to deal with or dispose of it (or any equipment, machinery, plant or other thing used in connection with, or that may have been in contact with, the ruminant, carcass or the product or by-product of a ruminant) in a manner that the authorized officer sees fit.
- (4) An authorized officer shall not enter, except with the consent of the occupier, a private dwelling, unless he or she has obtained a search warrant under Regulation 18 other than if he or she has reasonable cause to suspect that before

a search warrant could be sought in relation to the dwelling anything to which paragraph (2) or (3) relates is being or is likely to be destroyed or disposed of.

(5) An authorized officer may use reasonable force, if necessary, in exercise of his or her powers under this Regulation.

(6) An authorized officer, when exercising a power under this Regulation 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 the power.

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

(8) Without prejudice to the generality of paragraph (2), a direction or requirement of an authorized officer may include conditions—

- (a) prohibiting, restricting or otherwise controlling the use, processing or movement of a ruminant, carcass, the product or by-product of a ruminant, vessel, vehicle, container, equipment, machinery or other thing as may be specified by the authorized officer,
- (b) requiring that the person to whom the direction is addressed to take the bio-security measures (including measures requiring the treatment of a ruminant or place with an authorized insecticide) specified by the authorized officer, or
- (c) requiring the owner or person in charge of a premises to retain an animal, or introduce and retain an animal on the premises as a sentinel animal.

(9) If a member of the Garda Síochána has reasonable grounds to suspect that a person has committed an offence under these Regulations, the member may without warrant arrest the person.

(10) If in the course of exercising any powers under these Regulations an authorized officer or a member of the Garda Síochána finds or comes into possession of any thing that the officer or member believes to be evidence of an offence or suspected offence under these Regulations, it may be seized and retained for use in evidence in criminal proceedings.

(11) Nothing in these Regulations operates to prejudice a power conferred by another enactment to search, or to seize or detain property, which may be exercised by a member of an Garda Síochána or an officer of Customs and Excise.

(12) A trap set before the commencement of these Regulations is, from the commencement of these Regulations, considered to be a trap set under this Regulation.

Assistance to an authorized officer

17. (1) A person who has a ruminant, carcass, the product or by-product of a ruminant, a vehicle, equipment or document relating to any thing to which these Regulations refer in his or her possession or under his or her control, the servant, agent or employee of the person shall give any assistance requested to an authorized officer or person who accompanies an authorized officer.

(2) A person shall give any assistance requested to an authorized officer or person who accompanies an authorized officer for the purpose of undertaking an epidemiological, epizootiological, monitoring or surveillance programme for the purposes of the Bluetongue Directive or the Bluetongue Regulation.

Search warrant

18. (1) If a judge of the District Court is satisfied by information on oath of an authorized officer that there are reasonable grounds for suspecting—

- (a) evidence of or relating to the commission or intended commission of an offence under these Regulations is to be found on a premises,
- (b) there is or was a ruminant, carcass, the product or by-product of a ruminant or equipment or other thing made used or adapted for use (including manufacture and transport) in connection with a ruminant, carcass or the product or by-product of a ruminant on a premises,
- (c) a document or other record related to a thing to which subparagraph (a) or (b) refers is or may be on a premises,

the judge may issue a search warrant.

(2) A search warrant under this Regulation shall be expressed and operate to authorise a named authorized officer, accompanied by such authorized officers or other persons as the named authorized officer thinks necessary, at any time, within one month from the date of issue of the warrant, on production if so requested of the warrant, to enter (if necessary by use of reasonable force) the premises named in the warrant.

(3) If a premises is entered under a search warrant, an authorized officer so entering may exercise all or any of the powers conferred on an authorized officer under these Regulations.

Obstruction, etc.

19. A person shall not—

- (a) obstruct or impede an authorized officer (or a person who accompanies an authorized officer) in the exercise of his or her powers under Regulation 16,
- (b) fail, without reasonable cause, to comply with a requirement or direction of an authorized officer under Regulation 16,

- (c) interfere or otherwise tamper with a trap set under Regulation 16(2)(xiv) or otherwise,
- (d) fail, without reasonable cause, to give assistance to an authorized officer in accordance with Regulation 17, or
- (e) in purporting to give information to an authorized officer for the performance of the officer's powers under Regulation 16—
 - (i) make a statement that he or she knows to be false in a material particular or recklessly make a statement which is false in a material particular, or
 - (ii) fail to disclose a material particular.

Forgery

20. (1) A person shall not forge or utter knowing it to be forged—

- (a) a notice under Regulation 4, 5, 6, 7, 8 or 11,
- (b) a movement notice or vaccination notice, or
- (c) a direction or requirement issued under Regulation 4, 5, 6, 7, 8, 11 or 16 (if the requirement or direction is in documentary form),

(hereafter in this Regulation referred to as a “forged document”).

(2) A person shall not alter with intent to defraud or deceive, or to utter knowing it to be so altered—

- (a) a notice under Regulation 4, 5, 6, 7, 8 or 11,
- (b) a movement notice or vaccination notice, or
- (c) a direction or requirement issued under Regulation 4, 5, 6, 7, 8, 11 or 16 (if the requirement or direction is in documentary form),

(hereafter in this Regulation referred to as an “altered document”).

(3) A person shall not have, without lawful authority (the proof of which lies on him or her), in his or her possession or under his or her control a forged document or an altered document.

Offences, etc.

21. (1) A person who contravenes or aids or abets a contravention of—

- (a) Regulation 3, 4, 5, 6, 7, 8, 16, 17, 19 or 20,
- (b) a movement notice or vaccination notice or
- (c) a direction or requirement issued under Regulation 4, 5, 6, 7, 8, 11 or 16, commits an offence and is liable—

- (i) on summary conviction, to a fine not exceeding €5,000, or to imprisonment for a term not exceeding 6 months, or to both, or
- (ii) on conviction on indictment—
 - (I) in the case of a first offence, to a fine not exceeding €100,000, or to imprisonment for a term not exceeding 1 year, or to both, or
 - (II) in the case of a second or subsequent offence to a fine not exceeding €250,000, or to imprisonment for a term not exceeding 3 years, or to both.

(2) If an offence under these Regulations is committed by a body corporate and is proven to have been so committed with the consent, connivance or approval of or to have been attributable to the wilful neglect on the part of any person, being a director, manager, secretary or other officer of the body corporate or a person who was purported to act in any such capacity, that person, as well as the body corporate, commits offence and is liable to be proceeded against and punished as if he or she is guilty of the offence.

(3) If the affairs of a body corporate are managed by its members, paragraph (2) applies in relation to the acts and defaults of a member in connection with the functions of management as if the member were a director or manager of the body corporate.

(4) A summary offence under these Regulations may be prosecuted by the Minister.

Evidence on certificate

22. (1) In proceedings for an offence consisting of a contravention of these Regulations, a certificate purporting to be signed by a person employed at a laboratory named in the certificate stating the capacity in which that person is so employed and stating any one or more of the following, namely—

- (a) that the person received a sample submitted to the laboratory,
- (b) that, for such period as is specified in the certificate, the person had in his or her custody a sample so submitted,
- (c) that the person gave to such other person as is specified in the certificate a sample so submitted, or
- (d) that the person carried out any laboratory examination for the purpose of detecting the presence, in a sample so submitted, of bluetongue disease, or that the sample was positive for bluetongue disease,

is, unless the contrary is shown, evidence of the matters stated in the certificate.

(2) A certificate purporting to be signed by an officer of the Minister and to certify that on a specific day or days or during the whole of a specified period—

- (a) a person was or was not the holder of a movement notice, or
- (b) that a particular movement notice was subject to a particular condition or conditions,

is, without proof of the signature of the person purporting to sign the certificate or that he or she is an officer of the Minister, evidence, unless the contrary is shown, of the matters stated in the certificate.

(3) In any proceedings, evidence of a notice may be given by producing a copy of the notice which has endorsed on it a certificate purporting to be signed by an officer of the Minister stating that the copy is a true copy is, without proof of the signature of the person purporting to sign the certificate or that he or she is an officer of the Minister, evidence, unless the contrary is shown, of the notice.

(4) In proceedings for an offence under these Regulations the court may, if it considers that the interests of justice so require, direct that oral evidence of the matters stated in a certificate under paragraph (1), (2) or (3) be given, and the court may for the purpose of receiving oral evidence adjourn the matter.

(5) In any proceedings, evidence of an act of the institutions of the European Community may be given by production of a copy of the act certified by an officer of the Minister to be a copy of the act, and it is not necessary to prove the signature of the officer or that he or she is an officer of the Minister.

(6) Paragraph (5) is in addition to and not in substitution for the European Communities (Judicial Notice and Documentary Evidence) Regulations 1972 (S.I. No. 341 of 1972).

Publication of notices and directions

23. (1) The Minister shall, as soon as may be after making a notice under these Regulations (unless the notice has been served personally on the person affected), cause notice of the making of the notice to be published in print or other media, including by electronic communication, in a manner that would be, in his or her opinion, reasonably expected to inform a person affected of the terms of the notice.

(2) The Minister shall, as soon as may be after giving of a direction under Regulation 4(5), 5(5) or (6) or 6(5) (unless the direction has been served personally on the person affected) cause notice of the giving of the direction to be published in print or other media, including by electronic communication, in a manner that would be, in his or her opinion, reasonably expected to inform a person affected of the terms of the notice.

Revocation and amendment

24. The European Communities (Bluetongue) (Restriction on import) Regulations 2006 (S.I. No. 703 of 2006), the European Communities (Bluetongue) Regulations 2007 (S.I. No. 734 of 2007), the European Communities (Bluetongue) (Restriction on import) (Amendment) (No. 5) Regulations 2007 (S.I. No. 781 of 2007) and the Diseases of Animals Act 1966 (Bluetongue) (Restriction on imports from restricted zones) Order 2008 (S.I. No. 46 of 2008) are revoked.



GIVEN under my Official Seal,
1 May 2008

MARY COUGHLAN,
Minister for Agriculture, Fisheries and Food.

EXPLANATORY NOTE

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

These Regulations provide the detailed arrangements for dealing with bluetongue as set out in Council Directive No. 2000/75/EC and Commission Regulation (EC) No. 1266/2007 (as amended) and for ancillary matters.

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