

CHAPTER 25

LEGAL BASIS

INTRODUCTION

The legal basis for the control of FMD is found in the Diseases of Animals Acts, 1966 to 2001 and the Foot and Mouth Disease Order, 1956. This chapter summarises the legal basis for the control measures, the notices that must be served and the powers of authorised officers.

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- Annex 4 Summary of the powers of authorised officers under Section 17A of the Diseases of Animals Acts, 1966 to 2001

ANNEX 1 DISEASES OF ANIMALS ACT 1966 (AS AMENDED)**Powers relevant to combating the risk, outbreak or spread of FMD**

SECTION 3	MINISTER	General power to introduce controls by Order; should be used in conjunction with a specific power as cited below.
SECTION 5	MINISTER	General power to grant licences, attach conditions and revoke licence.
SECTION 10		Continues in force, inter alia, FMD Order.
SECTION 13	MINISTER	Specific powers (set out in Second Schedule) to make orders to prevent or check disease.
SECTION 14	MINISTER	Power, by Order, to declare an infected place or a place at risk of being infected, general effects and consequences, vary the area and prescribe the duration.
SECTION 15	MINISTER	Power, by Order, to require isolation or prohibit/ regulate movement of animals, products persons, to require destruction and disposal of carcasses, products, litter, equipment etc., regulating disinfection procedures.
SECTION 16	OWNER	May, by notice, prohibit entry of persons (does not effect authorised officers) onto land without permission.
SECTION 17	MINISTER	Provides for slaughter of animals and compensation (subject to sections 17A and 58).
SECTION 17A*	AUTHORISED OFFICER	See Annex 4; main policing powers outside FMD Order.
SECTION 18	MINISTER	Burial/disposal of carcasses slaughtered and ancillary financial provisions.
SECTION 26	MINISTER	Power, by Order, to prohibit or regulate the transport of certain animals, litter etc, keeping animals on commonages etc, exposure of certain animals for sale.
SECTION 27	MINISTER	Power, by Order, to prohibit/ regulate movement/use of animals, products, litter etc., the holding of markets, fairs, exhibitions and disinfection of places where such are held, providing for disinfection of vehicles, vessels, aircraft used to move animals, prescribing records to be maintained.

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SECTION 28	MINISTER	Power, by Order, to regulate the transport of animals and ancillary matters - feeding during transport, pens, fittings etc.
SECTION 29	MINISTER	Power, by Order, to regulate the transport of animals by sea/ air and ancillary matters.
SECTION 29A*	MINISTER	Power, by Order, to regulate dealers. Power to introduce a 30 day "post purchase" freeze on animal movement unless under permit.
SECTION 30	MINISTER	Power, by Order, to regulate imports of animals, products etc and disinfection procedures for persons etc entering the State.
SECTION 34	MINISTER	Power, by Order, to prescribe and regulate, ports and airports where animals may be landed.
SECTIONS 36 TO 41	LA	Powers and functions of LA's in relation to disease; in summary, an auxiliary to the Minister.
SECTION 42		General powers of inspection (largely superseded by s. 17A)
SECTION 43	INSPECTOR	Power to detain vessel or aircraft.
SECTION 45	MINISTER	Power to appoint inspectors
SECTION 46		General powers of police (Garda Síochána) (largely superseded by s. 17A)
SECTION 48/49		Offences
SECTION 49A**		Penalties
SECTION 58		Power to make Orders relating to compensation

* inserted by the Diseases of Animals Act 2001 (No. 3 of 2001); **inserted by National Beef Assurance Scheme Act 2000 (No. 2 of 2000).

Diseases of Animals (Amendment) Act 2003 (No. 3 of 2002)

SECTION 5

Statutory confirmation of FMD Order 1955 and penalties for breaches of the Order;

SECTION 8

Forfeiture, at option of Court, of vehicle, land, business etc, on conviction on indictment.

SECTION 9

Disqualification from keeping animals or engaging in an agricultural activity, at option of Court, as a consequence of conviction on indictment.

ANNEX 2 SUMMARY OF CONTROL MEASURES ALLOWED FOR UNDER THE FMD ORDER, 1956

FMD ORDER, 1956	
MEASURES	RELEVANT ARTICLE
Notification of a suspect	Article 3
Declaration of a suspect holding in NI or Ireland (Form AA or A)	Article 6
Control of movements	Article 7 (suspect zones) Article 19 (individual) Article 13 (contacts) Article 30-32 (P zone) Article 43 (S zone) Section 3, DAA (exports)
Declaration of an infected holding (Form B and C)	Article 9
Disinfection of infected premises	Article 12
Suspects at marts, abattoirs etc	Article 17
Powers to prevent spread by thing/person presenting a risk	Article 19
Requiring information from sellers/buyers at marts, fairs	Article 20
Movement under licence	Article 21
Valuation by a person appointed by the Minister	Article 22
Compensation for animals slaughtered	Article 22
Destruction of carcasses	Article 23
Licensing to dig up carcasses	Article 24
Information from persons landing in the State	Article 25
Disinfection of persons landing in the State	Article 26
Disinfection of farm implements, utensils, vehicles or other things landing in the State	Article 27
Declaring infected & controlled areas (P & S zones)	Article 28, 41
Extending infected & controlled areas (P & S zones)	Article 29, 42
Closing creameries	Article 33
Control of dogs or poultry in infected & controlled areas (P & S zones)	Article 34, 44
Control of sheep dipping & shearing in infected areas (P zones)	Article 35
Veterinary treatment of animals in an infected area (P zone)	Article 37
Power to close footpaths, rights of way & premises in infected areas (P zones)	Article 38
Disinfection of vehicles & equipment moving into, out of or within infected areas	Article 39
Banning racing, hunting, horse jumping, polo, pigeon racing, dog racing, coursing & training in infected & controlled areas (P & S zones)	Article 40, 46
Granting & extending licences, attaching conditions	Article 47
Producing licences & giving information	Article 48

ANNEX 3 SUMMARY OF AUTHORISED PERSONS, POWERS, RELEVANT NOTICES AND THEIR RELATED ARTICLES IN THE FMD ORDER, 1956

AUTHORISED PERSON	POWER	FORMS/NOTICES	ARTICLE
VI	Certify animal or carcass is infected	Form A, AA	6
	Extend the area of the Form A restrictions		7
	Licence movement of animals, carcasses or things (with conditions) within a Form A restricted area		8
	Declare an infected place (if FMD exists/existed within last 56 days). Withdraw the Form B notice	Form B Form C	9
	Alter the limits of the IP on the Form B		
	Apply any/all of rules of First Schedule		
	Add additional rules (in writing)		
Minister (or appropriate officer)	Require the occupier of a shed, field, yard or other place to cleanse and disinfect it	Notice in writing	12
VI	Prohibit movement of animals where he believes they have been exposed to FMD		
	Cause animals to be seized and moved to isolate them	Form D	13
VI	Direct that exposed animals be isolated (and attach conditions)	Form D	14
VI	Direct removal of animals from pasture to enclosed areas or other pastures (in specified manner)	Notice in writing	15
VI	Cause animals/carcasses to be seized, detained, fed & watered if infected or suspected to be infected (marts, fairs, abattoirs, lairages, during transit by land or water, on common or unenclosed land, exhibitions, public or private places, or any other place whilst not under the control of the owner)		17 (&16)
VI	Prohibit/direct the movement of any person, animal, carcass or thing from any place (+ conditions) if risk of spreading disease	Notice in writing	19
Minister	Require all sellers/purchasers at a fair, market or sale at which an infected animal was present in the last 21 days to inform the Competent Authority	Publication of notice that disease existed	20
Minister	Appoint persons to value animals		22
VI	Dispose of carcasses by burial, burning or high temperature/chemical agents		24
Authorised officer	Request persons landing in the State – name, address, address of destination, any other relevant information		25

ANNEX 3 SUMMARY OF AUTHORISED PERSONS, POWERS, RELEVANT NOTICES AND THEIR RELATED ARTICLES IN THE FMD ORDER, 1956

AUTHORISED PERSON	POWER	FORMS/NOTICES	ARTICLE
Authorised officer	Disinfect persons, clothes, baggage – where any attendant risk of spread of disease		26
Authorised Officer	Disinfect farm implements, utensils, vehicles or things – where any attendant risk of spread of disease		27
Minister	Declare/amend/revoke an infected area	Legislation	28
Minister	Include parts of farms etc. on border of area in the infected area		29
VI	Grant/revoke licence for movements out of, into or within infected areas	Licence	30-32 (& 47)
VI if authorised by the Minister	Close a creamery – where considered necessary to prevent the spread of disease	Notice in writing	33
LA officer, Gardai	Seize dogs in infected areas if not under control		34
VI	Require occupiers to keep dogs or poultry in infected areas under control	Notice in writing	34
VI	Close footpaths, rights of way, prohibit entry to premises in infected areas		
	Permit owners/agents in to feed animals	Notice in writing	38
VI	Require any animal/carcass transport vehicle & equipment moving within/out of infected areas to be cleaned and disinfected (as prescribed)	Notice in writing	39
Minister	Cause any animal/carcass transport vehicle & equipment moving within/out of infected areas to be cleaned and disinfected (as prescribed) (& recover costs)		39
VI if authorised by the Minister	Prohibit racing, hunting, horse jumping competitions, polo, pigeon racing, dog racing, coursing, dog training, game pursuits in infected areas	Notice in writing	40
Minister	Declare/amend/revoke a controlled area	Order	41
Minister	Include parts of farms etc. on border of area in the controlled area		42
VI	Grant/revoke licences for movement in controlled areas	Licence	43 & 47
LA officer, Gardai	Seize dogs in controlled areas if not under control		44
VI	Require occupiers to keep dogs or poultry in controlled areas under control	Notice in writing	44
VI if authorised by the Minister	Prohibit racing, hunting, horse jumping competitions, polo, pigeon racing, dog racing, coursing, dog training, game pursuits in controlled areas	Notice in writing	46
VI, Authorised officer, Gardai	Require persons to produce a licence & give information		48
LA	Execute & enforce Act if Minister directs		49
Minister	Recover expenses incurred in execution of Act by him or VI – from owner/consignor/consignee		50
Authorised officer = officer authorised under Section 17A - see Annex 4 (inserted by S.I. No. 3 of 2001)			
Offences – committing, aiding, abetting, counselling or procuring commission of any breach of Act or Order, licence conditions, notice conditions – penalties under DAA.			

**ANNEX 4
SUMMARY OF THE POWERS OF AUTHORISED OFFICERS UNDER SECTION 17A OF THE DISEASES OF ANIMALS ACTS, 1966 TO 2001**

AUTHORISED OFFICER	WHEN TO USE	POWER
<ul style="list-style-type: none"> • Veterinary Inspector • Officer authorised under section 25(3) of DAA • Authorised officer under section 10 of the Animal Remedies Act 1993 • Member of the Garda Síochána (police) • Officer of Customs and Excise • Certain members of the Defence Forces • Other persons appointed under subsection(2) of 17A 	<ul style="list-style-type: none"> • The officer has reasonable cause to suspect that an <i>animal, poultry, product, fodder or litter</i> is/may be infected or in contact with a diseased animal, poultry, product, fodder, litter (VI only) • An <i>animal, poultry, product, fodder or litter</i> has been moved in contravention of a requirement/direction of an authorised officer • An <i>animal, poultry, product, fodder or litter</i> has come from/through a place with a disease or where a disease may exist (inside/outside State) • A person is refusing/has refused to comply with a requirement/instruction • Any <i>land or premises, vehicle, vessel, aircraft or container</i> contains/recently contained an animal, poultry, product, fodder or litter • Any <i>offence is being/has been committed</i> under the Act or the European Communities Act 1972 	<ul style="list-style-type: none"> • Enter and search <i>land/premises</i> (warrant needed for a private dwelling) • Stop any person, vehicle, vessel, aircraft or container • Board & search any vehicle, vessel, aircraft or container • Search the person where the officer considers it necessary • Examine such animal, poultry, product, fodder, litter, vehicle, vessel, aircraft, container • Seize & detain any such animal, poultry, product, fodder, litter, vehicle, vessel, aircraft, container • Require the production of relevant documentation relating to the animal, poultry, product, fodder, litter, vehicle, vessel, aircraft, container • Retain any such document or thing • Dispose of (or require the owner/person in charge/in possession) of the animal, poultry, product, fodder, litter to dispose of it in such a manner as the authorised officer sees fit (including slaughter) • Give directions to, request information of, such person regarding the animal, poultry, product, fodder, litter, vehicle, vessel, aircraft, container as he/she considers necessary • Require the name & address of the person/any other relevant person (inc. person to whom the animal, poultry, product, fodder, litter is being delivered) • Require of the person the ownership, identity or origin of the animal, poultry, product, fodder, litter • Mark or otherwise identify such animal, poultry, product, fodder, litter
<p>Reasonable force may be used</p>		
<p>An authorised officer may be accompanied by/take other persons with him/her (plus equipment or materials) to assist in the exercising of powers</p>		
<p>Penalties – Summary conviction - £1,500 +/- 6 months. Conviction on indictment - £100,000 or 5 years.</p>		
<p>Offences – obstruction, failure to comply with instruction, false statement, failure to disclose material</p>		