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SCOTTISH STATUTORY INSTRUMENTS

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**2006 No. 336**

**The Avian Influenza and Influenza of Avian  
Origin in Mammals (Scotland) Order 2006**

**PART 6**

Measures on confirmation of low pathogenic avian influenza

**Confirmation of low pathogenic avian influenza**

**45.** If the Chief Veterinary Officer (Scotland), as a result of a veterinary inquiry established under article 12, or otherwise, forms the opinion that low pathogenic avian influenza exists, or has in the previous 56 days existed, on any premises, the Chief Veterinary Officer (Scotland) shall inform the Scottish Ministers of that conclusion, and the Scottish Ministers shall confirm the existence of low pathogenic avian influenza and declare the premises to be infected premises.

**Measures when low pathogenic avian influenza is confirmed**

**46.—**(1) If the Scottish Ministers confirm low pathogenic avian influenza on any premises other than regulated places, they must—

- (a) apply (by notice to the occupier of the premises) such of the measures set out in Part 1 of Schedule 6 as they consider necessary to reduce the risk of the spread of avian influenza; and
- (b) ensure that a veterinary inquiry continues at the infected premises.

(2) The Scottish Ministers must not permit any movement otherwise prohibited under Part 1 of Schedule 6 unless they are satisfied that it would not significantly increase the risk of the spread of low pathogenic avian influenza.

(3) In reaching a decision under paragraph (2), the Scottish Ministers must, in particular, take into account the criteria set out in Part 2 of Schedule 6.

(4) An inspector who knows or suspects that any poultry or other captive bird in transit is infected or contaminated with low pathogenic avian influenza must serve a notice on the keeper of the bird—

- (a) directing transport of the bird to such premises as the inspector thinks fit; and
- (b) requiring the detention at such place as the inspector directs of any vehicle, equipment or other thing suspected of being contaminated until it has been cleansed and disinfected as directed by the inspector.

(5) The owner of the bird is liable for any expenses arising from the transport of any bird (including feeding, watering and any other expenses incurred in relation to the welfare of the bird).

**Movement of eggs from premises where low pathogenic avian influenza is confirmed**

**47.—**(1) Where the Scottish Ministers direct that poultry on any premises on which low pathogenic avian influenza is confirmed are to be slaughtered at a slaughterhouse, a licence for the movement of eggs off the premises (prior to the poultry being sent for slaughter) may not be granted

unless the Scottish Ministers are satisfied that the movement would not significantly increase the risk of the spread of low pathogenic avian influenza.

- (2) The Scottish Ministers may only license the movement of such eggs—
- (a) to a designated packing centre <sup>F1</sup> ...;
  - (b) to an establishment for the manufacture of egg products; or
  - (c) for disposal.

#### Textual Amendments

- F1** Words in art. 47(2)(a) omitted (4.12.2021) by virtue of [The Avian Influenza \(H5N1 in Birds etc.\) \(Miscellaneous Amendment and Revocation\) \(Scotland\) Order 2021 \(S.S.I. 2021/444\)](#), arts. 1(1), **2(2)**

#### Veterinary surveillance of poultry

**48.** The Scottish Ministers shall make arrangements for any premises where poultry are kept before being sent to a slaughterhouse for slaughter under paragraph 5 of Schedule 3 to the Act or under regulation 4 of the Regulations to be kept under veterinary surveillance.

#### Veterinary surveillance of birds

**49.** The Scottish Ministers shall make arrangements for birds which are on special category premises and which the Scottish Ministers decide are not to be killed under paragraph 5 of Schedule 3 to the Act or under regulation 4 of the Regulations, to be monitored for avian influenza.

#### Tracing of poultry and eggs

**50.—**(1) The Scottish Ministers must endeavour to trace from premises where low pathogenic avian influenza has been confirmed—

- (a) hatching eggs from poultry laid during the unregulated period of infection; and
- (b) poultry hatched from eggs laid during that period.

(2) The Scottish Ministers must ensure that such veterinary enquiries as they consider necessary to monitor for avian influenza are carried out at premises to which eggs and poultry are so traced.

#### Identification of contact premises

**51.—**(1) The Scottish Ministers must serve a notice on the occupier of any premises (other than regulated places) if they suspect—

- (a) that low pathogenic avian influenza may have been carried there from other premises; or
- (b) that low pathogenic avian influenza may have been carried to other premises from there.

(2) Premises in respect of which a notice is served under this article are contact premises for the purposes of this Part.

#### Restrictions at contact premises

**52.—**(1) The provisions of Schedule 1 apply to contact premises until the Scottish Ministers notify the occupier that those measures no longer apply.

(2) The Scottish Ministers must, if they consider it necessary to prevent the spread of low pathogenic avian influenza, require the occupier to comply with such of the requirements of Schedule 6 as they may direct.

(3) When considering whether to require an occupier to comply with the requirements of Schedule 6, the Scottish Ministers must take into account at least the criteria set out in paragraph (3) of article 25, as read with paragraphs (4) and (5) of article 25.

(4) If the Scottish Ministers require poultry or other captive birds on contact premises to be killed, they must ensure that samples are taken from the dead birds and tested for avian influenza.

### **Declaration of a low pathogenic avian influenza restricted zone**

**53.**—(1) The Scottish Ministers must, on confirmation of low pathogenic avian influenza on premises other than regulated places in Scotland (and subject to paragraph (4)), declare a low pathogenic avian influenza restricted zone around the infected premises.

(2) The Scottish Ministers must, on confirmation of low pathogenic avian influenza in an area of England which is less than 1 kilometre from Scotland, declare a low pathogenic avian influenza restricted zone in Scotland.

(3) The Scottish Ministers may declare a low pathogenic avian influenza restricted zone on confirmation of low pathogenic avian influenza in an area of England or Wales which is one kilometre or more from Scotland.

(4) The Scottish Ministers may, on the basis of a risk assessment, decide not to declare a low pathogenic avian influenza restricted zone if the premises where low pathogenic avian influenza is confirmed are—

- (a) a hatchery; or
- (b) special category premises.

### **Size of zones**

**54.** A low pathogenic avian influenza restricted zone must be centred on the part of the infected premises which the Scottish Ministers consider most appropriate and have a radius of at least 1 kilometre.

### **Measures in low pathogenic avian influenza restricted zones**

**55.**—(1) The measures in Schedule 7 apply in respect of a low pathogenic avian influenza restricted zone, subject to paragraphs (2) and (3).

(2) In their declaration under article 53, the Scottish Ministers may, if they have carried out a risk assessment and do not believe that to do so would endanger disease control, disapply some or all of the measures set out in Schedule 7 if the premises where low pathogenic avian influenza has been confirmed is a hatchery or special category premises.

(3) The Scottish Ministers may, if they consider it necessary to reduce the risk of the spread of low pathogenic avian influenza, impose (by declaration) measures additional to those set out in Schedule 7.

(4) The Scottish Ministers must ensure that—

- (a) commercial premises in the zone containing poultry or other captive birds are identified as soon as possible;
- (b) tests for avian influenza are carried out on commercial poultry premises within a radius of at least 1 kilometre of the infected premises or part of the premises or, if they think it more appropriate, of the part of the premises where avian influenza was found.

**[<sup>F2</sup>Ending of low pathogenic avian influenza restricted zones**

**55A.**—(1) The Scottish Ministers may, by declaration, end a low pathogenic avian influenza restricted zone but must not do so until—

- (a) the minimum period has elapsed, or
  - (b) the Scottish Ministers are satisfied, on the basis of veterinary enquiries and tests carried out in the low pathogenic avian influenza restricted zone, and a risk assessment, that the risk of the spread of low pathogenic avian influenza is negligible.
- (2) In paragraph (1), “the minimum period” means—
- (a) where preliminary cleansing and disinfection has been carried out in accordance with article 65, 21 days following completion of that preliminary cleansing and disinfection, or
  - (b) in any other case, 42 days following the date on which the existence of low pathogenic avian influenza is confirmed.]

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**Textual Amendments**

**F2** [Art. 55A](#) inserted (19.12.2023) by [The Avian Influenza and Influenza of Avian Origin in Mammals \(Scotland\) Amendment Order 2023 \(S.S.I. 2023/361\)](#), arts. 1, **2(14)**

**Changes to legislation:**

There are currently no known outstanding effects for the The Avian Influenza and Influenza of Avian Origin in Mammals (Scotland) Order 2006, PART 6.