
STATUTORY INSTRUMENTS

2006 No. 2702

The Avian Influenza and Influenza of Avian
Origin in Mammals (England) (No.2) Order 2006

PART 9

Inspection, enforcement, offences, amendments and revocations

Disapplication of measures to those executing this Order

80. Measures in this Order prohibiting or restricting the movement of any person or the use of any thing do not apply to the following in their execution of the Order—

- (a) the Secretary of State;
- (b) the local authority;
- (c) any person authorised by the Secretary of State or the local authority to execute the Order.

Veterinary investigations

81.—(1) An inspector executing this Order may—

- (a) mark, or cause to be marked, for identification purposes any bird, mammal, carcase or other thing;
- (b) count birds and mammals;
- (c) take samples from any bird, mammal, carcase or other thing;
- (d) take with him such people and things as he considers necessary.

(2) Any person who enters premises under paragraph (1)(d) may return unaccompanied to take any further steps necessary to carry out the relevant functions.

(3) A person carrying out a veterinary investigation who suspects that avian influenza or influenza virus of avian origin exists or has existed on the premises must seek to establish—

- (a) the length of time avian influenza [^{F1}virus] has existed on the premises or on any vehicle,
- (b) the possible origin of avian influenza [^{F1}virus] on the premises,
- (c) which premises may have been exposed to contamination by avian influenza [^{F1}virus] from the same origin or from the premises under investigation, and
- (d) the extent to which avian influenza [^{F1}virus] may have been carried to or from the premises under investigation by the movement of birds, people, animals, vehicles, eggs, carcasses, implements or any other thing.

(4) The occupier of the premises under investigation and any person appearing to the person carrying out the investigation to have charge of birds or mammals on the premises must provide such assistance as the person carrying out the investigation may reasonably require.

(5) No person shall deface, obliterate or remove any mark applied under paragraph (1)(a) except with the written authority of a veterinary inspector.

(6) Any person who carries out an investigation under this Order must keep a record of the dates he visits premises, of his findings at the premises and of any action he has required the occupier of the premises to take.

(7) Any person who imposes any requirements or restrictions under this Order must take account of the results of any relevant veterinary inquiries of which he should reasonably be aware.

[^{F2}(8) Any person who carries out an investigation under this Order must do so in accordance with the diagnostic manual.]

Textual Amendments

- F1** Word in art. 81(3)(a)-(d) inserted (20.12.2023) by [The Exotic Disease \(Amendment\) \(England\) Order 2023 \(S.I. 2023/1415\)](#), arts. 1(1), **4(39)**
- F2** Art. 81(8) inserted (21.12.2021) by [The Exotic Animal Disease \(Amendment\) \(England\) Order 2021 \(S.I. 2021/1472\)](#), arts. 1(1), **3(16)**

General powers of inspectors

82.—(1) An inspector executing this Order may require the detention and isolation of any vehicle, equipment or other thing, by serving a notice on the occupier of the premises where it is kept, or on the person in charge of it.

- (2) A veterinary inspector executing this Order, or an inspector acting under his direction, may—
- (a) cleanse and disinfect any premises and any thing;
 - (b) require the cleansing and disinfection of any thing, by serving a notice on the occupier of the premises where it is kept, or on the person in charge of it;
 - (c) require the cleansing and disinfection of any premises, by serving a notice on the occupier of the premises;
 - (d) require, by notice, the occupier of any premises or the keeper of any animal or bird—
 - (i) to keep or isolate the animal or bird in a specified place; and
 - (ii) to separate the animal or bird from any other animal or bird.

(3) For the purposes of section 65A of the Act, a controlled zone is a designated area until it ceases to be a controlled zone.

Powers of inspectors in case of default

83.—(1) If any person fails to comply with a requirement of this Order or of a declaration, licence, notice or designation under it, an inspector may take the steps he considers necessary to ensure the requirement is met at the expense of that person .

- (2) An inspector's powers under paragraph (1) include powers to—
- (a) direct any person to take or refrain from specified action in respect of any place, animal, bird, vehicle, or other thing; and
 - (b) seize and detain any thing.

Offences by bodies corporate

- 84.**—(1) If an offence against the Act committed by a body corporate is shown—
- (a) to have been committed with the consent or connivance of an officer; or
 - (b) to be attributable to any neglect on his part,

the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.

(2) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body.

(3) In this article, “officer”, in relation to a body corporate, means a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity.

Enforcement

85.—(1) [^{F3}Subject to paragraph (1A),] the local authority must enforce this Order.

[^{F4}(1A) In relation to designated slaughterhouses, this Order is enforced by the Food Standards Agency.]

(2) The Secretary of State may direct, in relation to cases of a particular description or to particular cases, that he will enforce this Order instead.

[^{F5}(3) Where the Secretary of State makes a direction under paragraph (2), the Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of an offence under section 73 of the Act relating to this Order.]

Textual Amendments

- F3** Words in art. 85 inserted (27.10.2022) by [The Exotic Animal Disease \(Amendment\) \(England\) Order 2022 \(S.I. 2022/1108\)](#), arts. 1(1), **4(9)(a)**
- F4** Art. 85(1A) inserted (27.10.2022) by [The Exotic Animal Disease \(Amendment\) \(England\) Order 2022 \(S.I. 2022/1108\)](#), arts. 1(1), **4(9)(b)**
- F5** Art. 85(3) added (24.12.2012) by [The Agriculture, Animals, Environment and Food etc. \(Miscellaneous Amendments\) Order 2012 \(S.I. 2012/2897\)](#), arts. 1(1), **11**

Amendment, revocation and savings

86.—(1) In article 2 of the Diseases of Animals (Approved Disinfectants) Order 1978, the definition of “Diseases of Poultry Order” is substituted by—

““Diseases of Poultry Order” means the Diseases of Poultry Order 2003 and the Avian Influenza and Influenza of Avian Origin in Mammals (England) No 2 Order;”.

(2) The Avian Influenza and Influenza Virus of Avian Origin in Mammals (England) Order 2006^{M1} is revoked but any notice, licence or designation under that Order having effect at the coming into force of this Order remains in force as if it were a notice, licence or designation under this Order.

Marginal Citations

- M1** [S.I. 2006/1197](#).

Changes to legislation:

There are currently no known outstanding effects for the The Avian Influenza and Influenza of Avian Origin in Mammals (England) (No.2) Order 2006, PART 9.