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WELSH STATUTORY INSTRUMENTS

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**2021 No. 1292 (W. 327)**

**ANIMALS, WALES**

**ANIMAL HEALTH**

**The Avian Influenza (H5N1 in Wild  
Birds) (Wales) (Amendment) Order 2021**

Made - - - - at 5.55 p.m. on 19  
November 2021  
Coming into force in accordance with article 1(2)

The Welsh Ministers, in exercise of the powers conferred by sections 1, 8(1), 15(5), 17(1), 23 and 25 of the Animal Health Act 1981(1) make the following Order:

**Title and commencement**

1.—(1) The title of this Order is the Avian Influenza (H5N1 in Wild Birds) (Wales) (Amendment) Order 2021.

(2) This Order comes into force immediately after it is made.

**Amendments to the Avian Influenza (H5N1 in Wild Birds) (Wales) Order 2006**

2. The Avian Influenza (H5N1 in Wild Birds) (Wales) Order 2006(2) is amended as follows.

**Amendment to article 2 (interpretation)**

3. In article 2 (interpretation)—

- (a) in the definition of “wild bird control area” omit “or 5(3)”;  
(b) in the definition of “wild bird monitoring area” omit “or 5(3)”.

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(1) 1981 c. 22. Functions of “the Ministers” under the Animal Health Act 1981 (c. 22) (as defined in section 86(1) of that Act) are exercisable by the Welsh Ministers (in relation to Wales), by virtue of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), the National Assembly for Wales (Transfer of Functions) Order 2004 (S.I. 2004/3044) and section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32). The powers in the Animal Health Act 1981, when read with paragraph 5 of Schedule 8 to the European Union (Withdrawal) Act 2018 (c. 16), allow for modifications to be made to retained direct minor EU legislation as defined in section 7(6) of the Act. “Modify” is defined in section 20(1) of the European Union (Withdrawal) Act 2018 and includes “amend, repeal or revoke”.

(2) S.I. 2006/3310 (W. 300) as amended by S.I. 2014/517 (W. 60). There are other amendments not relevant to this Order.

**Amendment to article 5 (confirmation or suspicion of H5N1 in wild birds)**

4. In article 5 (confirmation or suspicion of H5N1 in wild birds)—
- (a) in paragraph (2)—
    - (i) for “If the wild bird or carcase was found in Wales, the” substitute “The”;
    - (ii) for “must declare” substitute “, after considering a risk assessment, may declare”;
  - (b) omit paragraphs (3), (4) and (5);
  - (c) in paragraph (6) omit “, (3)(a) or (3)(b)”;
  - (d) in paragraph (7) omit “, (3)(a) or (3)(c)”.

**Amendment to article 6 (extent of wild bird control and monitoring areas)**

5. In article 6 (extent of wild bird control and monitoring areas), in paragraph (9), for “5(3)” substitute “5(2)”.

**Amendment to article 11 (duty to inspect poultry premises)**

6. In article 11 (duty to inspect poultry premises), in sub-paragraph (1)(b), for “all premises where poultry are kept within the wild bird control area as often” substitute “such premises within the wild bird control area at such frequency”.

**Amendment to article 12 (maintenance of areas)**

7. In article 12 (maintenance of areas), in sub-paragraph 2(c) for “at least one visit to each of those premises” substitute “such visits as considered necessary”.

**Amendment to Schedule 3 (biosecurity measures)**

8. In Schedule 3 (biosecurity measures), in paragraph 4(b), omit “(unless it is carrying poultry)”.

**Revocation**

9. Commission Decision of 11 August 2006 concerning certain protection measures in relation to highly pathogenic avian influenza of subtype H5N1 in wild birds in the Community and repealing [Decision 2006/115/EC\(3\)](#) is revoked.

At 5.55 p.m. on 19 November 2021

*Lesley Griffiths*  
Minister for Rural Affairs and North Wales, and  
Trefnydd, one of the Welsh Ministers

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order, which applies in Wales only, amends the Avian Influenza (H5N1 in Wild Birds) (Wales) Order 2006 ([S.I. 2006/3310 \(W. 300\)](#)) (“the principal Order”) and revokes the Commission Decision of 11 August 2006 concerning certain protection measures in relation to highly pathogenic avian influenza of subtype H5N1 in wild birds in the Community and repealing [Decision 2006/115/EC](#) (“the Commission Decision”).

Article 4 amends article 5 of the principal Order and replaces the obligation on the Welsh Ministers to declare a wild bird control area and a wild bird monitoring area in certain circumstances with a discretion to do so.

Articles 2, 5 and 7 make consequential amendments.

Article 6 amends article 11(1) of the principal Order so that, amongst other things, the Welsh Ministers must ensure that a veterinary inspector visits such premises within the wild bird control area at such frequency as the Welsh Ministers consider necessary to monitor the possible spread of avian influenza.

Article 8 amends paragraph 4(b) of Schedule 3 to the principal Order so that the requirement that a person entering or leaving a premises must ensure the outside of the vehicle is not soiled with mud, animal or bird faeces etc. also applies to vehicles carrying poultry.

Article 9 revokes the Commission Decision.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to this Order. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with this Order.