

Council Directive 2005/94/EC of 20 December 2005 on Community measures
for the control of avian influenza and repealing Directive 92/40/EEC

CHAPTER IV

HIGHLY PATHOGENIC AVIAN INFLUENZA (HPAI)

SECTION 1

Holdings, separate production units and contact holdings

Article 11

Measures to be applied on holdings where outbreaks are confirmed

1 In case of an outbreak of HPAI, the competent authority shall ensure that the measures provided for in Article 7(2) and (3) and paragraphs 2 to 10 of this Article are applied.

2 All poultry and other captive birds on the holding shall be killed without delay under official supervision. The killing shall be carried out in such a way as to avoid the risk of spread of avian influenza, in particular during transport.

However, Member States may grant derogations for certain species of poultry or other captive birds not to be killed, on the basis of an assessment of the risk of further spread of avian influenza.

The competent authority may take appropriate measures to limit any possible spread of avian influenza to any wild birds on the holding.

3 All carcasses and eggs on the holding shall be disposed of under official supervision.

4 Poultry already hatched from eggs collected from the holding during the period between the probable date of introduction of HPAI on the holding and the application of the measures provided for in Article 7(2), shall be placed under official supervision and investigations shall be carried out in accordance with the diagnostic manual.

5 Meat of poultry slaughtered and eggs collected from the holding during the period between the probable date of introduction of HPAI on the holding and the application of the measures provided for in Article 7(2) shall, wherever possible, be traced and disposed of under official supervision.

6 All substances and waste likely to be contaminated, such as feed, shall be destroyed or undergo a treatment ensuring the destruction of the avian influenza virus, in accordance with the instructions of the official veterinarian.

7 However, manure, slurry and bedding likely to be contaminated shall undergo one or more of the procedures provided for in Article 48.

8 Following the disposal of carcasses, the buildings used for housing them, pastures or land, the equipment likely to be contaminated and the vehicles used for transporting the poultry or other captive birds, carcasses, meat, feed, manure, slurry, bedding and any other material or

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substance likely to be contaminated shall undergo one or more of the procedures provided for in Article 48.

9 Other captive birds or mammals of domestic species shall not enter or leave the holding without the authorisation of the competent authority. That restriction shall not apply to mammals of domestic species which have access only to the living areas for humans.

10 In the case of a primary outbreak, the virus isolate shall be subjected to the laboratory procedure in accordance with the diagnostic manual to identify the genetic subtype.

That virus isolate shall be submitted to the Community reference laboratory, as provided for in Article 51(1) as soon as possible.

Article 12

Derogations

1 Member States shall draw up detailed rules for granting derogations, as provided for in Articles 11(2), 13 and 14, including alternative appropriate measures and conditions. Such derogations shall be based on a risk assessment carried out by the competent authority.

2 Member States shall immediately notify the Commission of any derogation granted in accordance with Article 13(1) and Article 14.

3 Where a derogation has been granted, as provided for in Article 13(1) and Article 14, the Commission shall immediately review the situation with the Member State concerned and in the Standing Committee on the Food Chain and Animal Health ('the Committee') as soon as possible.

4 Taking account of any derogation granted, as provided for in Article 13(1) and Article 14, measures to prevent the spread of avian influenza may be adopted in accordance with the procedure referred to in Article 64(3).

Article 13

Derogations concerning certain holdings

1 The competent authority may grant derogations from the measures provided for in the first subparagraph of Article 11(2) in cases of an outbreak of HPAI in a non-commercial holding, a circus, a zoo, a pet bird shop, a wild life park, a fenced area where poultry or other captive birds are kept for scientific purposes or purposes related to the conservation of endangered species or officially registered rare breeds of poultry or other captive birds, provided that such derogations do not endanger disease control.

2 The competent authority shall ensure that where a derogation is granted, as provided for in paragraph 1, the poultry and other captive birds concerned by the derogation:

- a are brought inside a building on their holding and kept there. Where this is impractical or if their welfare is compromised they are confined in some other place on the same holding such that they do not have contact with other poultry or other captive birds on other holdings. All reasonable steps are taken to minimise their contact with wild birds;
- b are subjected to further surveillance and testing in accordance with the diagnostic manual and are not moved until the laboratory tests have indicated that they no longer pose a significant risk of further spread of HPAI; and
- c are not moved from their holding of origin, except for slaughter or to another holding:

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- (i) located in the same Member State, in accordance with the instructions of the competent authority; or
- (ii) in another Member State, subject to the agreement of the Member State of destination.

3 The competent authority may grant derogations from the measures provided for in Article 11(5), for eggs to be sent directly to an establishment for the manufacture of egg products as set out in Chapter II of Section X of Annex III to Regulation (EC) No 853/2004 to be handled and treated in accordance with Chapter XI of Annex II to Regulation (EC) No 852/2004.

Any such authorisations shall be subject to the conditions set out in Annex III to this Directive.

Article 14

Measures to be applied in cases of outbreaks of HPAI in separate production units

In cases of an outbreak of HPAI in a holding which consists of two or more separate production units, the competent authority may grant derogations from the measures provided for in the first subparagraph of Article 11(2) for production units containing poultry or other captive birds where no HPAI is suspected, provided that such derogations do not endanger disease control.

Such derogations shall only be granted in respect of two or more separate production units where the official veterinarian, taking account of the structure, size, operation, type of housing, feeding, water source, equipment, staff and visitors to the holding, is satisfied that they are completely independent of other production units in terms of location and day-to-day management of the poultry or other captive birds kept there.

Article 15

Measures to be applied in contact holdings

1 Based on the epidemiological inquiry, the competent authority shall decide if a holding is to be considered as a contact holding.

The competent authority shall ensure that the measures provided for in Article 7(2) are applied to contact holdings until the presence of HPAI has been excluded in accordance with the diagnostic manual.

2 Based on the epidemiological inquiry, the competent authority may apply the measures provided for in Article 11 to contact holdings and in particular if the contact holding is located in an area with a high density of poultry.

The main criteria to be considered for the application of the measures provided for in Article 11 in contact holdings are set out in Annex IV.

3 The competent authority shall ensure that samples are taken from poultry and other captive birds when they are killed in order to confirm or exclude the presence of HPAI virus in those contact holdings in accordance with the diagnostic manual.

4 The competent authority shall ensure that, on any holding where poultry or other captive birds are killed and disposed of and avian influenza is subsequently confirmed, the

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buildings and any equipment likely to be contaminated and the vehicles used for transporting the poultry, other captive birds, carcasses, meat, feed, manure, slurry, bedding and any other material or substance likely to be contaminated undergo one or more of the procedures provided for in Article 48.

SECTION 2

Protection, surveillance and further restricted zones

Article 16

Establishment of protection, surveillance and further restricted zones in cases of HPAI

- 1 Immediately following an outbreak of HPAI, the competent authority shall establish:
 - a a protection zone with a radius of at least three kilometres around the holding;
 - b a surveillance zone with a radius of at least 10 kilometres around the holding, including the protection zone.
- 2 If the outbreak of HPAI is confirmed in other captive birds in a non-commercial holding, circus, zoo, pet bird shop, wildlife park, a fenced area where other captive birds are kept for scientific purposes or purposes related to the conservation of endangered species or officially registered rare breeds of other captive birds that do not contain poultry, the competent authority may, following a risk assessment, derogate to the extent necessary from the provisions of Sections 2 to 4 concerning the establishment of the protection and surveillance zones and the measures to be applied therein, provided that such derogations do not endanger disease control.
- 3 When establishing protection and surveillance zones, as provided for in paragraph 1, the competent authority shall take account of the following criteria at least:
 - a the epidemiological inquiry;
 - b the geographical situation, particularly natural boundaries;
 - c the location and proximity of holdings and the estimated number of poultry;
 - d patterns of movements and trade in poultry, other captive birds;
 - e the facilities and personnel available to control any movement within the protection and surveillance zones of poultry or other captive birds, their carcasses, manure, bedding or used litter, in particular if the poultry or other captive birds to be killed and disposed of have to be moved from their holding of origin.
- 4 The competent authority may establish further restricted zones around or adjacent to the protection and surveillance zones, taking account of the criteria provided for in paragraph 3.
- 5 If a protection, surveillance or further restricted zone covers the territories of different Member States, the competent authorities of the Member States concerned shall collaborate to establish the zone.

Article 17

Measures to be applied both in the protection and in the surveillance zones

- 1 The competent authority shall ensure that the following measures are applied within the protection and surveillance zones:

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- a arrangements are put in place which permit the tracing of anything likely to spread the avian influenza virus including poultry, other captive birds, meat, eggs, carcasses, feed, litter, people who have been in contact with the infected poultry or other captive birds or vehicles with a link to the poultry industry;
- b owners are to provide the competent authority, on request, with any relevant information concerning the poultry or other captive birds and eggs entering or leaving the holding.

2 The competent authority shall take all reasonable steps to ensure that all persons in the protection and surveillance zones affected by the restrictions concerned are fully aware of the restrictions in place.

That information may be conveyed through warning notices, media resources such as the press and television or any other appropriate means.

3 The competent authority may, where epidemiological information or other evidence indicates, implement a preventive eradication programme, including preventive slaughtering or killing of poultry or other captive birds, in holdings and areas at risk.

4 Member States applying the measures provided for in paragraph 3 shall immediately inform the Commission thereof, and the Commission shall review the situation with the Member States concerned and in the Committee as soon as possible.

SECTION 3

Measures to be applied in protection zones

Article 18

Census and visits by the official veterinarian and surveillance

The competent authority shall ensure that the following measures are applied in protection zones:

- (a) a census of all the holdings is made as soon as possible;
- (b) all commercial holdings are visited by an official veterinarian as soon as possible for a clinical examination of the poultry and other captive birds and, if necessary, the collection of samples for laboratory tests in accordance with the diagnostic manual; a record of such visits and the findings thereof shall be kept; non-commercial holdings are visited by an official veterinarian before the lifting of the protection zone;
- (c) additional surveillance is immediately implemented in accordance with the diagnostic manual in order to identify any further spread of avian influenza in the holdings located in the protection zone.

Article 19

Measures to be applied on holdings in protection zones

The competent authority shall ensure that the following measures are applied on holdings in protection zones:

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- (a) all poultry and other captive birds are brought inside a building on their holding and kept there. Where this is impractical or if their welfare is compromised, they are confined in some other place on the same holding such that they do not have contact with other poultry or other captive birds on other holdings. All reasonable steps are taken to minimise their contact with wild birds;
- (b) carcasses are disposed of as soon as possible;
- (c) vehicles and equipment used for transporting live poultry or other captive birds, meat, feed, manure, slurry and bedding and any other material or substances likely to be contaminated, undergo without delay one or more of the procedures provided for in Article 48;
- (d) all parts of vehicles used by staff or other persons which enter or leave holdings and are likely to have become contaminated undergo without delay one or more of the procedures provided for in Article 48;
- (e) no poultry, other captive birds or domestic mammals may enter or leave a holding without authorisation of the competent authority. This restriction shall not apply to mammals which have access only to the living areas for humans in which they:
 - (i) have no contact with resident poultry or other captive birds, and
 - (ii) have no access to any cages or areas where such resident poultry or other captive birds are kept;
- (f) any increased morbidity or mortality or significant drop in production data in holdings is immediately reported to the competent authority, which shall carry out appropriate investigations in accordance with the diagnostic manual;
- (g) any person entering or leaving holdings observes appropriate biosecurity measures aimed at preventing the spread of avian influenza;
- (h) records of all persons visiting holdings, except dwellings, are kept by the owner in order to facilitate disease surveillance and control and must be made available upon request by the competent authority. Such records do not have to be kept where the visitors are to holdings such as zoos and wildlife parks where they have no access to the areas where the birds are kept.

Article 20

Prohibition on the removal or spreading of used litter, manure or slurry from holdings

The competent authority shall ensure that the removal or spreading of used litter, manure or slurry from holdings in protection zones are prohibited, unless authorised by it. However, the movement of manure or slurry may be authorised from holdings under biosecurity measures to a designated plant for treatment or for intermediate storage for subsequent treatment to destroy the possible presence of avian influenza viruses in accordance with Regulation (EC) No 1774/2002 or with specific rules which may be adopted in accordance with the procedure referred to in Article 64(2).

Article 21

Fairs, markets or other gatherings and restocking of game

The competent authority shall ensure that fairs, markets, shows or other gatherings of poultry or other captive birds are prohibited in protection zones.

The competent authority shall ensure that poultry or other captive birds for restocking of game are not released in protection zones.

Article 22

Prohibition on the movement and transport of birds, eggs, poultry meat and carcasses

1 The competent authority shall ensure that within protection zones, the movement and transport from holdings on to roads, excluding private service roads of holdings, or by rail, of poultry, other captive birds, ready-to-lay poultry, day-old chicks, eggs and carcasses are prohibited.

2 The competent authority shall ensure that the transport of poultry meat from slaughterhouses, cutting plants and cold stores is prohibited unless it has been produced:

- a from poultry which has originated from outside the protection zones and has been stored and transported separately from the meat of poultry from within the protection zones; or
- b on a date at least 21 days before the estimated date of earliest infection on a holding in the protection zone and which since production has been stored and transported separately from such meat produced after that date.

3 However, the prohibitions in paragraphs 1 and 2 shall not apply to transit through the protection zone on roads or rail without unloading or stopping.

Article 23

Derogations for the direct transport of poultry for immediate slaughter and the movement or treatment of poultry meat

1 By way of derogation from Article 22, the competent authority may authorise the direct transport of poultry originating from a holding in the protection zone for immediate slaughter to a designated slaughterhouse subject to the following conditions:

- a a clinical examination of the poultry on the holding of origin is carried out by the official veterinarian within 24 hours of being sent for slaughter;
- b where appropriate, laboratory tests have been carried out on poultry on the holding of origin in accordance with the diagnostic manual, with favourable results;
- c the poultry are transported in vehicles sealed by the competent authority or under its supervision;
- d the competent authority responsible for the designated slaughterhouse is informed and agrees to receive the poultry and then confirms the slaughter to the competent authority of dispatch;
- e the poultry from the protection zone are kept separately from other poultry and are slaughtered separately or at different times from other poultry, preferably at the end of

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- a working day; subsequent cleansing and disinfection shall be completed before other poultry are slaughtered;
 - f the official veterinarian shall ensure that a detailed examination of the poultry is carried out at the designated slaughterhouse when the poultry arrive and after they are slaughtered;
 - g the meat does not enter into intra-Community or international trade and bears the health mark for fresh meat provided for in Annex II to Council Directive 2002/99/EC of 16 December 2002 laying down the animal health rules governing the production, processing, distribution and introduction of products of animal origin for human consumption⁽¹⁾, unless otherwise decided in accordance with the procedure referred to in Article 64(3) of this Directive;
 - h the meat is obtained, cut, transported and stored separately from meat intended for intra-Community and international trade and is used in such a way as to avoid it being introduced into meat products intended for intra-Community or international trade, unless:
 - (i) it has undergone a treatment set out in Annex III to Directive 2002/99/EC; or
 - (ii) it is otherwise decided in accordance with the procedure referred to in Article 64(3).
- 2 By way of derogation from Article 22, the competent authority may authorise the direct transport of poultry from outside the protection zone for immediate slaughter to a designated slaughterhouse within the protection zone and subsequent movement of the meat derived from such poultry providing that:
- a the competent authority responsible for the designated slaughterhouse is informed and agrees to receive the poultry and then confirms the slaughter to the competent authority of dispatch;
 - b the poultry are kept separate from other poultry originating within the protection zone and are slaughtered separately or at different times from other poultry;
 - c the poultry meat produced is cut, transported and stored separately from poultry meat obtained from other poultry originating in the protection zone;
 - d the by-products are disposed of.

Article 24

Derogations for the direct transport of day-old chicks

- 1 By way of derogation from Article 22, the competent authority may authorise the direct transport of day-old chicks, originating from holdings within the protection zone to a holding or shed of that holding in the same Member State, preferably located outside the protection and the surveillance zones, subject to the following conditions:
- a they are transported in vehicles sealed by the competent authority or under its supervision;
 - b appropriate biosecurity measures are applied during transport and at the holding of destination;
 - c the holding of destination is placed under official surveillance following the arrival of the day-old-chicks;
 - d if moved outside the protection or surveillance zone, the poultry shall remain on the holding of destination for at least 21 days.

2 By way of derogation from Article 22, the competent authority may authorise the direct transport of day-old chicks, hatched from eggs originating from holdings located outside the protection and surveillance zones, to any other holding in the same Member State, preferably located outside the protection and the surveillance zones, provided that the hatchery of dispatch can ensure by its logistics and by its hygienic working conditions that no contact has occurred between those eggs and any other hatching eggs or day-old chicks originating from poultry flocks within such zones and which are therefore of a different health status.

Article 25

Derogations for the direct transport of ready to lay poultry

By way of derogation from Article 22, the competent authority may authorise the direct transport of ready-to-lay poultry to a holding or shed of that holding preferably within the protection or the surveillance zone in which there is no other poultry, subject to the following conditions:

- (a) a clinical examination of the poultry and other captive birds in the holding of origin and in particular of those to be moved is carried out by the official veterinarian;
- (b) where appropriate, laboratory tests have been carried out on poultry in the holding of origin in accordance with the diagnostic manual with favourable results;
- (c) the ready-to-lay poultry is transported in vehicles sealed by the competent authority or under its supervision;
- (d) the holding or shed of destination is placed under official surveillance following the arrival of the ready-to-lay poultry;
- (e) if moved outside the protection or surveillance zone, the poultry shall remain on the holding of destination for at least 21 days.

Article 26

Derogation for the direct transport of hatching and table eggs

1 By way of derogation from Article 22, the competent authority may authorise the direct transport of hatching eggs either from any holding to a hatchery located, in the protection zone and designated by the competent authority ('the designated hatchery') or, subject to the following conditions, from a holding located in the protection zone to any designated hatchery:

- a the parent flocks from which the hatching eggs are derived have been examined in accordance with the diagnostic manual and avian influenza is not suspected on these holdings;
- b the hatching eggs and their packaging are disinfected before dispatch and the tracing back of these eggs can be ensured;
- c the hatching eggs are transported in vehicles sealed by the competent authority or under its supervision;
- d biosecurity measures are applied in the designated hatchery in accordance with the instructions of the competent authority.

2 By way of derogation from Article 22, the competent authority may authorise the direct transport of eggs:

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- a to a packing centre designated by the competent authority ('the designated packing centre'), provided that they are packed in disposable packaging and that all biosecurity measures required by the competent authority are applied;
- b to an establishment for the manufacture of egg products as set out in Chapter II of Section X of Annex III to Regulation (EC) No 853/2004 to be handled and treated in accordance with Chapter XI of Annex II to Regulation (EC) No 852/2004; or
- c for disposal.

Article 27

Derogation for the direct transport of carcasses

By way of derogation from Article 22, the competent authority may authorise the direct transport of carcasses provided that they are transported to be disposed of.

Article 28

Cleansing and disinfecting of means of transport

The competent authority shall ensure that the vehicles and equipment used for the transport as provided for in Articles 23 to 27 are cleansed and disinfected without delay by one or more of the procedures set down in Article 48 following the transport.

Article 29

Duration of measures

1 The measures provided for in this Section shall be maintained for at least 21 days following the date of completion of preliminary cleansing and disinfection on the infected holding by one or more of the procedures set down in Article 48 and until holdings located in the protection zone have been tested in accordance with the diagnostic manual.

2 When the measures referred to in this Section are no longer to be maintained, as provided for in paragraph 1 of this Article, the measures laid down in Article 30 shall apply in the former protection zone, until they are no longer to be applied as provided for in Article 31.

SECTION 4

Measures to be applied in the surveillance zones

Article 30

Measures to be applied in the surveillance zones

The competent authority shall ensure that the following measures are applied in surveillance zones:

- (a) a census of all commercial poultry holdings is made as soon as possible;

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- (b) the movement of poultry, ready-to-lay poultry, day-old chicks, eggs within the surveillance zone is prohibited unless authorisation is granted by the competent authority, which ensures that appropriate biosecurity measures are applied to prevent the spread of avian influenza; this prohibition shall not apply to transit thorough the surveillance zone on road or rail without unloading or stopping;
- (c) the movement of poultry, ready-to-lay poultry, day-old chicks and eggs to holdings, slaughterhouses, packing centres or an establishment for the manufacture of egg products located outside the surveillance zone is prohibited; however, the competent authority may authorise the direct transport of:
- (i) poultry for slaughter to a designated slaughterhouse, for the purpose of immediate slaughter subject to Article 23(1), points (a), (b) and (d);

The competent authority may authorise the direct transport of poultry from outside the protection and surveillance zones for immediate slaughter to a designated slaughterhouse within the surveillance zone and the subsequent movement of the meat derived from such poultry;
 - (ii) ready-to-lay poultry to a holding in which there is no other poultry in the same Member State; that holding shall be placed under official surveillance following the arrival of the ready-to-lay poultry and the ready-to-lay poultry shall remain on the holding of destination for at least 21 days;
 - (iii) day-old chicks:
 - to a holding or shed of such holding in the same Member State provided that appropriate biosecurity measures are applied and the holding is placed under official surveillance following the transport and day-old chicks shall remain on the holding of destination for at least 21 days, or
 - if hatched from hatching eggs originating from poultry holdings located outside the protection and surveillance zones, to any other holding, provided that the hatchery of dispatch can ensure by its logistics and biosecurity working conditions that no contact has occurred between these eggs and any other hatching eggs or day-old-chicks originating from poultry flocks within those zones and which are therefore of a different health status;
 - (iv) hatching eggs to a designated hatchery located inside or outside the surveillance zone; the eggs and their packaging shall be disinfected before dispatch and the tracing back of these eggs must be ensured;
 - (v) table eggs to a designated packing centre, provided that they are packed in disposable packaging and that all biosecurity measures required by the competent authority are applied;
 - (vi) eggs to an establishment for the manufacture of egg products as set out in Chapter II of Section X of Annex III to Regulation (EC) No 853/2004 to be handled and treated in accordance with Chapter XI of Annex II to Regulation (EC) No 852/2004 located inside or outside the surveillance zone;
 - (vii) eggs for disposal;
- (d) any person entering or leaving holdings in the surveillance zone observes appropriate biosecurity measures aimed at preventing the spread of avian influenza;

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- (e) vehicles and equipment used for transporting live poultry or other captive birds, carcasses, feed, manure, slurry and bedding and any other material or substances likely to be contaminated, are cleansed and disinfected without delay after contamination by one or more of the procedures provided for in Article 48;
- (f) no poultry, other captive birds or mammals of domestic species may enter or leave a holding where poultry is kept without authorisation of the competent authority. This restriction shall not apply to mammals which have access only to the living areas for humans in which they:
 - (i) have no contact with resident poultry or other captive birds, and
 - (ii) have no access to any cages or areas where such resident poultry or other captive birds are kept;
- (g) any increased morbidity or mortality or significant drop in production data in holdings is immediately reported to the competent authority, which shall carry out appropriate investigations in accordance with the diagnostic manual;
- (h) the removal or spreading of used litter, manure or slurry is prohibited unless authorised by the competent authority; the movement of manure may be authorised from a holding situated in the surveillance zone under biosecurity measures to a designated plant for treatment or for intermediate storage for subsequent treatment to destroy the possible presence of avian influenza viruses, in accordance with Regulation (EC) No 1774/2002 or with specific rules which may be adopted in accordance with the procedure referred to in Article 64(2);
- (i) fairs, markets, shows or other gatherings of poultry or other captive birds are prohibited;
- (j) poultry for restocking of game are not released.

Article 31

Duration of measures

The measures provided for in this Section shall be maintained for at least 30 days following the date of completion of preliminary cleansing and disinfection on the infected holding in accordance with Article 48.

SECTION 5

Measures to be applied in further restricted zones

Article 32

Measures to be applied in further restricted zones

1 The competent authority may provide that some or all the measures provided for in Sections 3 and 4 shall apply inside the further restricted zones provided for in Article 16(4) ('the further restricted zones').

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2 The competent authority may, where epidemiological information or other evidence indicates, implement a preventive eradication programme, including preventive slaughtering or killing of poultry or other captive birds, in holdings and areas at risk, according to the criteria of Annex IV, located in further restricted zones.

The restocking of those holdings shall take place in accordance with the instructions of the competent authority.

3 Member States applying the measures provided for in paragraphs 1 and 2 shall immediately inform the Commission thereof.

4 The Commission shall review the situation with the Member States concerned and in the Committee as soon as possible.

5 Without prejudice to decisions to be adopted pursuant to Council Decision 90/424/EEC of 26 June 1990 on expenditure in the veterinary field⁽²⁾, further surveillance, biosecurity and control measures to prevent the spreading of avian influenza may be adopted in accordance with the procedure referred to in Article 64(3).

SECTION 6

Derogations and additional biosecurity measures

Article 33

Derogations

1 Member States shall define the detailed arrangements under which they may grant derogations provided for in Articles 16 and 23 to 27, including alternative appropriate measures and conditions. Such derogations shall be based on a risk assessment carried out by the competent authority.

2 The competent authority may, based on a risk assessment, grant derogations from the measures provided in Sections 3 and 4 in cases of confirmation of HPAI in a hatchery.

3 The competent authority may grant derogations from the measures provided for in Article 18, points (b) and (c), Article 22, and in Article 30, points (b), (c) and (f), in cases of an outbreak of HPAI in a non-commercial holding, a circus, a zoo, a wild life park, a fenced area where poultry or other captive birds are kept for scientific purposes or purposes related to the conservation of endangered species or officially registered rare breeds of poultry or other captive birds.

4 By way of derogation from Sections 3 and 4, in cases of outbreaks of HPAI Member States may, based on a risk assessment, introduce specific measures on movements of racing pigeons into, from and within the protection and surveillance zones.

5 The derogations provided for in paragraphs 1 to 4 shall only be granted provided that such derogations do not endanger disease control.

6 Member States granting derogations provided for in paragraphs 1 to 4 shall immediately inform the Commission thereof.

7 The Commission shall in all cases review the situation with the Member State concerned and in the Committee as soon as possible.

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Taking account of any derogation granted, as provided for in paragraphs 1 to 4, measures to prevent the spread of avian influenza may be adopted in accordance with the procedure referred to in Article 64(3).

8 Any poultry (including day-old-chicks), other captive birds, hatching eggs, used litter, manure or slurry which come from a holding that has been granted a derogation under this Article, cannot be marketed outside the Member State concerned unless otherwise decided in accordance with the procedure referred in Article 64(3).

Article 34

Additional biosecurity measures

1 In order to prevent the spread of avian influenza, the competent authority may, in addition to the measures provided for in Sections 3, 4 and 5, order the implementation of additional biosecurity measures in holdings in the protection and surveillance zones and in the further restricted zones, as well as in poultry compartments and other captive birds compartments in the Member State concerned.

Those measures may include restrictions on movements of vehicles or persons for feed supply, egg collection, the transport to slaughterhouses of poultry, the collection for disposal of carcasses and other movements of personnel, veterinarians or persons supplying farm equipment.

2 Member States which adopt measures, as provided for in paragraph 1, shall immediately inform the Commission thereof.

3 The Commission shall review the situation with the Member State concerned and in the Committee as soon as possible.

4 Without prejudice to decisions to be adopted pursuant to Decision 90/424/EEC, further surveillance, biosecurity and control measures to prevent the spread of avian influenza may be adopted in accordance with the procedure referred to in Article 64(3).

SECTION 7

Measures to be applied in cases of suspicion and confirmation of highly pathogenic Avian Influenza (HPAI) in certain premises other than holdings and in means of transport

Article 35

Investigation of suspected presence of HPAI in slaughterhouses and in means of transport

Where there is suspicion or confirmation of the presence of HPAI in slaughterhouses or means of transport, the competent authority shall immediately set in motion an investigation in the holding of origin of the poultry or other captive birds to confirm or exclude its presence in accordance with the diagnostic manual.

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Article 36

Measures to be applied in slaughterhouses

1 Where HPAI is suspected or confirmed in a slaughterhouse, the competent authority shall ensure that, on the basis of a risk assessment, all poultry present in the slaughterhouse is either killed or slaughtered as soon as possible under official supervision.

Where such poultry is slaughtered, the poultry meat and any by-products derived from the poultry and poultry meat and by-products of any other poultry which may have been contaminated during the slaughter and production process, shall be kept separate and under official supervision until investigations in accordance with the diagnostic manual have been completed.

2 If HPAI is confirmed, the poultry meat and any by-products derived from the poultry and poultry meat and by-products of any other poultry which may have been contaminated during the slaughter and production process shall be disposed of as soon as possible under official supervision.

Article 37

Measures to be applied in border inspection posts or means of transport

1 Where HPAI is suspected or confirmed in border inspection posts or means of transport, the competent authority shall ensure that, on the basis of a risk assessment, all poultry and other captive birds present in the border inspection post or in the means of transport are killed, slaughtered or placed in isolation away from poultry or other captive birds and kept under official supervision until the investigation is completed in accordance with the diagnostic manual. The competent authority shall apply the measures provided for in Article 7 as appropriate.

The competent authority may authorise the movement of the poultry or other captive birds to another place where they are killed, slaughtered or placed into isolation.

The competent authority may decide not to kill or slaughter those poultry or other captive birds present in the border inspection post that have not been in contact with the poultry or other captive birds suspected of being infected.

2 Where poultry referred to in paragraph 1 is slaughtered, the poultry meat and any by-products derived from those poultry and poultry meat and by-products of any other poultry which may have been contaminated during the slaughter and production process, shall be kept separate and under official supervision until investigations in accordance with the diagnostic manual have been completed.

3 If HPAI is confirmed, the poultry meat and any by-products derived from those poultry and poultry meat and by-products of any other poultry which may have been contaminated during the slaughter and production process shall be disposed of as soon as possible under official supervision.

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Article 38

Additional measures to be applied to slaughterhouses, border inspection posts or means of transport

The competent authority shall ensure that the following additional measures are applied where HPAI is suspected or confirmed in a slaughterhouse, border inspection post or means of transport:

- (a) no poultry or other captive birds are introduced into the slaughterhouse, the border inspection post or the means of transport until at least 24 hours after the cleansing and disinfection as provided for in point (b) are completed by one or more of the procedures set down in Article 48; in the case of border inspection posts, the prohibition on introduction may be extended to other animals;
- (b) the cleansing and disinfection of contaminated buildings, equipment and vehicles takes place in accordance with one or more of the procedures set down in Article 48 and under the official supervision of the official veterinarian;
- (c) an epidemiological inquiry is carried out;
- (d) the measures provided for in Article 7(2) are applied in the holding of origin of the infected poultry or carcasses and in contact holdings;
- (e) unless otherwise indicated by the epidemiological inquiry and the further investigations, as provided for in Article 35, the measures provided for in Article 11 are applied in the holding of origin;
- (f) the avian influenza virus isolate is subjected to the laboratory procedure in order to identify the subtype of the virus, in accordance with the diagnostic manual.

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- (1) [OJ L 18, 23.1.2003, p. 11.](#)
- (2) [OJ L 224, 18.8.1990, p. 19.](#)