

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

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.