

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 V

LOW PATHOGENIC AVIAN INFLUENZA (LPAI)

SECTION 1

Measures to be applied on holdings where outbreaks are confirmed

Article 39

Measures to be applied

1 In case of an outbreak of LPAI, the competent authority shall ensure that the measures provided for in points (a), (b), (c), (e), (g) and (h) of Article 7(2), Article 7(3) and paragraphs 2 to 5 of this Article are applied on the basis of a risk assessment and taking account of at least the criteria set out in Annex V.

2 The competent authority shall ensure that all poultry on the holding and all other captive birds of the species in which LPAI has been confirmed are depopulated under official supervision in such a way as to prevent the spread of avian influenza.

The depopulation may be extended to other captive birds on the holding based on the assessment of the risk that they pose as regards further spread of avian influenza and to other holdings that may be considered as contact holdings, based on the epidemiological inquiry.

Before depopulation, no poultry or other captive birds shall enter or leave the holding, unless authorised by the competent authority.

3 For the purpose of paragraph 2, the depopulation shall be carried out in accordance with Directive 93/119/EC and the competent authority shall decide that the poultry or other captive birds are:

- a killed as soon as possible, or
- b slaughtered in a designated slaughterhouse in accordance with paragraph 4.

When depopulation is by slaughter in a designated slaughterhouse, the poultry shall be subjected to further surveillance and testing.

The poultry shall not be moved from the holding to the designated slaughterhouse until the competent authority, taking account, in particular, of the investigations and the laboratory tests directed at determining the extent of any excretion of the virus by the poultry carried out in accordance with the diagnostic manual and a risk assessment, is satisfied that the risk of further spread of LPAI is minimal.

4 Slaughter in a designated slaughterhouse in accordance with paragraph 3 may take place only provided that:

- a the poultry is sent directly from the holding to the designated slaughterhouse;

- b each consignment is sealed before dispatch by the official veterinarian responsible for the holding or under his supervision;
 - c each consignment remains sealed throughout transport to the designated slaughterhouse;
 - d further biosecurity measures prescribed by the competent authority are complied with;
 - e the competent authority responsible for the designated slaughterhouse is informed and agrees to receive the poultry;
 - f vehicles and equipment used for transporting live poultry 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 set down in Article 48, and
 - g the by-products of such poultry at the slaughterhouse are disposed of.
- 5 The competent authority shall ensure that the following are disposed of under official supervision:
- a carcasses, and
 - b hatching eggs on the holding.
- 6 The competent authority shall ensure that the following measures are taken:
- a hatching eggs collected from the holding during the period between the probable introduction of LPAI into the holding and the taking of the measures provided for in this Directive, are whenever possible traced and hatched under official surveillance;
 - b poultry already hatched from eggs collected from the holding during the period between the probable introduction of LPAI into the holding and the taking of the measures provided for in this Directive, are whenever possible placed under official surveillance and investigations are carried out in accordance with the diagnostic manual;
 - c eggs present on the holding and further produced on the holding before depopulation as provided for in paragraph 2, are transported provided that the risk of spread of LPAI is minimised:
 - (i) 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;
 - (ii) 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
 - (iii) for disposal.
 - d any material or substance likely to be contaminated are either treated in accordance with the instructions of the official veterinarian or disposed of;
 - e manure, slurry and bedding likely to be contaminated undergo one or more of the procedures provided for in Article 48;
 - f after depopulation, the buildings used for housing the poultry or other captive birds, the equipment likely to be contaminated and the vehicles used for transporting carcasses, feed, manure, slurry, and bedding or any other material or substance likely to be contaminated undergoes without delay one or more of the procedures provided for in Article 48;
 - g mammals of domestic species do not enter or leave the holding without the 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:

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- (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.
- h in the case of a primary outbreak of LPAI, the virus isolate is subjected to the laboratory tests to identify the subtype of virus in accordance with the diagnostic manual; the virus isolate shall be submitted to the Community reference laboratory, as provided for in Article 51(1), as soon as possible.
- 7 Member States applying the measures provided for in paragraphs 2, 4 and 5 shall inform the Commission thereof.

Article 40

Derogations for certain holdings

1 The competent authority may grant derogations from the measures provided for in Article 39(2) and point (b) of Article 39(5) in cases of an outbreak of LPAI 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 or 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 LPAI; and
- c are not moved from their holding of origin, except for slaughter or to another holding:
 - (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 in cases of outbreaks of LPAI in hatcheries, based on a risk assessment, grant derogations from some or all of the measures provided for in Article 39.

4 Member States shall draw up detailed rules for applying the derogations provided for in paragraphs 1 and 3.

5 Member States shall immediately inform the Commission of any derogation granted in accordance with paragraphs 1 and 3.

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

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

SECTION 2

Separate production units and contact holdings

Article 41

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

1 In cases of an outbreak of LPAI in a holding which consists of two or more separate production units, the competent authority may grant derogations from the measures provided for in Article 39(2), for production units containing healthy poultry provided that such derogations do not endanger disease control.

2 Member States shall draw up detailed rules for applying the derogations provided for in paragraph 1, taking account of the animal health guarantees which may be obtained and shall provide for alternative appropriate measures.

3 Member States shall immediately inform the Commission of any derogations granted in accordance with paragraph 1.

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

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

Article 42

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 LPAI 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 39 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 39 in contact holdings are set out in Annex IV.

3 The competent authority shall ensure that samples are taken from the poultry when they are killed in order to confirm or exclude the presence of the LPAI 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 slaughtered or killed and disposed of, and LPAI is subsequently confirmed, the buildings and any pastures used for housing them, farm yards 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 3

Establishment of restricted zones

Article 43

Establishment of restricted zones in cases of outbreaks of LPAI

Immediately following an outbreak of LPAI, the competent authority shall establish a restricted zone with a radius of at least one kilometre around the holding.

Article 44

Measures to be applied in the restricted zone

1 The competent authority shall ensure that the following measures are applied in the restricted zone:

- a a census of all commercial holdings is made as soon as possible;
- b laboratory tests are carried out on commercial poultry holdings within a radius of at least one kilometre around the holding in accordance with the diagnostic manual;
- c all movements of poultry, other captive birds, ready-to-lay poultry, day old chicks and eggs within or into the restricted zone are subject to authorisation and to other control measures deemed appropriate by the competent authority; this restriction shall not apply to the transit through the restricted zone on road or rail without unloading or stopping;
- d the movement of poultry, other captive birds, ready-to-lay poultry, day-old chicks and eggs from the restricted zone are prohibited unless the competent authority authorises the direct transport of:
 - (i) poultry for slaughter to a slaughterhouse in the same Member State;
 - (ii) live poultry to a holding or shed in the same Member State in which there is no other poultry. The live poultry shall remain there for 21 days and the holding shall be placed under official surveillance following their arrival;
 - (iii) day-old chicks:
 - to a holding or shed of such holding in the same Member State; the day old chicks shall remain there for 21 days and the holding shall be placed under official surveillance following their arrival; or
 - if hatched from eggs originating from poultry holdings located outside of the restricted zone to any other holding provided that the hatchery can ensure by its logistics and biosecurity working conditions that any contact is excluded with hatching eggs or day-old chicks originating from poultry flocks within the restricted zone and which are therefore of a different health status;

- (iv) hatching eggs to a designated hatchery; 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 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 restricted zone;
- (vii) eggs for disposal;
- e carcasses shall be disposed of;
- f any person entering or leaving holdings in the restricted zone observes appropriate biosecurity measures aimed at preventing the spread of avian influenza;
- g vehicles and equipment used for transporting live poultry or other captive birds, 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 set down in Article 48;
- h no poultry, other captive birds or mammals of domestic species 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;
- i the removal or spreading of used litter, manure or slurry is prohibited, unless authorised by the competent authority; the movement of manure or slurry may be authorised from a holding situated in the restricted 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);
- j fairs, markets, shows or other gatherings of poultry or other captive birds are prohibited, unless authorised by the competent authority;
- k poultry or other captive birds for restocking of game are not released.

2 The competent authority may, based on a risk assessment, introduce further measures in addition to the measures provided for in this Section and shall inform the Commission thereof.

3 Further measures may be adopted to prevent the spread of avian influenza in accordance with the procedure referred to in Article 64(3).

Article 45

Duration of measures

The measures provided for in this Section shall be maintained:

- (a) at least 21 days following the date of completion of preliminary cleansing and disinfection of the infected holding by one or more of the procedures set down

- in Article 48, and until the competent authorities, based on the investigations and laboratory tests carried out in the restricted zone in accordance with the diagnostic manual and a risk assessment, consider that the risk of spread of LPAI is negligible;
- (b) at least 42 days following the date of confirmation of the outbreak and until the competent authorities, based on the investigations and laboratory tests carried out in the restricted zone in accordance with the diagnostic manual and a risk assessment, consider that the risk of spread of LPAI is negligible; or
- (c) for any other duration and under conditions to be established in accordance with the procedure referred to in Article 64(3).

Article 46

Derogations

1 Where LPAI is confirmed in a hatchery, the competent authority may, based on a risk assessment, derogate from some or all of the measures provided for in Articles 43 and 44.

2 The competent authority may grant derogations from the measures provided for in this Section in cases of an outbreak of LPAI 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.

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

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

5 Taking account of any derogation granted, as provided for in paragraphs 1 and 2, measures to prevent the spread of avian influenza may be adopted in accordance with the procedure referred to in Article 64(3).