

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;

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- 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.

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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).