

2007 No. 208

ANIMALS

ANIMAL HEALTH

**The Avian Influenza (H5N1 in Wild Birds) Regulations
(Northern Ireland) 2007**

Made - - - - - *23rd March 2007*

Coming into operation - - - - - *24th March 2007*

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The Department of Agriculture and Rural Development, being designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to the common agricultural policy of the European Community, makes the following Regulations in exercise of the powers conferred on it by that section.

PART I INTRODUCTION

Citation and commencement

1. These Regulations may be cited as the Avian Influenza (H5N1 in Wild Birds) Regulations (Northern Ireland) 2007 and shall come into operation on 24th March 2007.

Interpretation

2.—(1) In these Regulations—

“avian influenza” means an infection of birds caused by any influenza A virus of the subtypes H5 or H7 or with an intravenous pathogenicity index in six week old chickens greater than 1.2;

“the Avian Influenza Regulations” means the Avian Influenza and Influenza of Avian Origin in Mammals Regulations (Northern Ireland) 2007(c);

“bird by-product” means entire bodies or parts of birds or products of avian origin, not intended for human consumption, included in Articles 4, 5 and 6 of Regulation (EC) No. 1774/2002;

“controlled meat” means any fresh meat, minced meat, meat preparation, mechanically separated meat or meat product which has not undergone a heat treatment at a minimum

(a) S.I. 2000/2812

(b) 1972 c. 68

(c) S.R. 2007 No. 68

temperature of 70°C (which must be reached throughout the meat) derived from poultry or wild game birds originating from within a wild bird control area;

“day-old chicks” means poultry less than 72 hours old which have not yet fed and muscovy ducks (*Cairina moschata*) and their crosses less than 72 hours old, whether or not fed;

“the Department” means the Department of Agriculture and Rural Development;

“designated” means designated in accordance with regulation 13 and “undesignated” is construed accordingly;

“fresh meat” means meat that has not undergone any preserving process other than chilling, freezing or quick-freezing, including meat that is vacuum wrapped or wrapped in a controlled atmosphere;

“hatching egg” means an egg for incubation laid by any poultry;

“H5N1” means the highly pathogenic avian influenza virus of the H5 subtype and the neuraminidase N1;

“inspector” means a person appointed by the Department to be an inspector for the purposes of these Regulations and includes a veterinary inspector;

“keeper” means any person responsible for birds or animals, whether on a permanent or temporary basis, but does not include a person responsible for them solely because he is transporting them;

“meat preparation” means fresh meat, including meat that has been reduced to fragments, which has had foodstuffs, seasonings or additives added to it or which has undergone processes insufficient to modify the internal muscle fibre structure of the meat and thus to eliminate the characteristics of fresh meat;

“meat product” means a processed product resulting from the processing of meat or from the further processing of such processed products, so that the cut surface shows that the product no longer has the characteristics of fresh meat;

“mechanically separated meat” means the product obtained by removing meat from flesh-bearing bones after boning, using mechanical means resulting in the loss or modification of the muscle fibre structure;

“minced meat” means boned fresh meat that has been minced into fragments and contains less than 1% salt;

“the 1981 Order” means the Diseases of Animals (Northern Ireland) Order 1981;

“other captive bird” means a bird kept in captivity which is not poultry and includes a bird kept for shows, races, exhibitions or competitions, breeding, or sale but excludes—

- (a) pet animals of the bird species as referred to in Article 3(a) of Regulation (EC) No 998/2003;
- (b) birds for zoos, circuses, amusement parks and experimental laboratories and sentinel birds placed by the competent authority in the frame of surveillance and research activities;

“outbreak point” has the meaning given by regulation 6(1);

“poultry” means all birds reared or kept in captivity for—

- (a) the production of meat or eggs for consumption,
- (b) the production of other products,
- (c) restocking supplies of game birds, or
- (d) the purposes of any breeding programme for the production of these categories of birds;

“premises” includes any land, building or other place;

“processed fresh meat” means any minced meat, meat preparation or mechanically separated meat;

“Regulation (EC) No. 853/2004” means Regulation (EC) No. 853/2004 of the European Parliament and of the Council laying down specific hygiene rules for food of animal origin as amended(a);

“Regulation (EC) No. 1774/2002” means Regulation (EC) No. 1774/2002 of the European Parliament and of the Council laying down health rules concerning animal by-products not intended for human consumption, as last amended by Commission Regulation (EC) No 2007/2006(b);

“slaughterhouse” means a premises used for slaughtering poultry, the meat of which is intended for human consumption;

“vehicle” includes—

- (a) a trailer, semi-trailer or other thing which is designed or adapted to be towed by another vehicle,
- (b) a detachable part of a vehicle,
- (c) a container or other structure designed or adapted to be carried by or on a vehicle;

“wild bird” means a bird that is not poultry or any other captive bird;

“wild bird control area” means a wild bird control area declared under regulation 5(2) or 5(3);

“wild bird monitoring area” means a wild bird monitoring area declared under regulation 5(2) or 5(3);

“wild game bird” means a bird which lives freely in the wild and is hunted for human consumption.

(2) The Interpretation Act (Northern Ireland) 1954(c) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

Declarations and notices

3.—(1) A declaration of a wild bird control area or wild bird monitoring area—

- (a) must be in writing;
- (b) may be subject to conditions and may be amended or withdrawn, by further declaration at any time;
- (c) must designate the extent of the area which is being declared; and
- (d) must list or refer to the measures which apply in the area and, if they apply only in part of the area, specify to which part they apply.

(2) A notice served under these Regulations—

- (a) must be in writing;
- (b) may be subject to conditions and may be amended, suspended or revoked, by a further notice, at any time;
- (c) must specify whether it applies to all or part of a premises to which it relates; and
- (d) must, if it applies to part of a premises, specify to which part it applies.

(3) The Department must ensure that the extent of any wild bird control area or wild bird monitoring area declared under these Regulations, the nature of the restrictions and requirements applicable within it and the dates of its declaration and withdrawal are publicised.

(a) O.J. No. L 139, 30.4.2004, p. 55, as last amended by O.J. No. L 320, 18.11.2006, p. 1

(b) O.J. No. L 273, 10.10.2002, p1. as last amended by O.J. No. L 379, 28.12.2006, p98 and corrected by a corrigendum (O.J. No. L 30, 3.2.2007, p 3)

(c) 1954 c. 33 (N.I.)

Licences

4.—(1) The Department shall not grant a licence under these Regulations for the movement of any poultry, other captive bird, hatching egg, controlled meat or bird by-product unless it has taken account of the relevant risk assessment.

(2) In paragraph (1), “the relevant risk assessment” means the Department’s assessment of the risk that the particular movement or a movement of that type would spread avian influenza.

(3) A licence granted under these Regulations—

- (a) must be in writing;
- (b) may be either a general licence or a specific licence;
- (c) must be made subject to such conditions as the Department considers necessary to control the spread of avian influenza; and
- (d) may be amended, suspended or revoked, in writing, at any time.

(4) A person moving anything under the authority of a specific licence must—

- (a) keep the licence or a copy of it with him at all times during the licenced movement;
- (b) on demand made by an inspector produce the licence or copy and allow a copy or extract of it to be taken; and
- (c) on such demand, provide his name and address.

(5) A person moving anything under the authority of a general licence must—

- (a) keep with him, at all times during the licenced movement, a consignment note that contains details of—
 - (i) what is moved (including its quantity),
 - (ii) the date of the movement,
 - (iii) the name of the consignor,
 - (iv) the address of the premises from which the movement started,
 - (v) the name of the consignee, and
 - (vi) the address of the premises of destination;
- (b) on demand made by an inspector produce the consignment note and allow a copy or extract to be taken; and
- (c) on such demand, provide his name and address.

(6) Unless the Department directs otherwise in a declaration of a wild bird control area or a wild bird monitoring area or by notice served on the occupier of any premises or on the owner or occupier of any vehicle, any movement that has already started when such a declaration comes into force may be completed.

PART II

CONFIRMATION OR SUSPICION OF H5N1

Confirmation or suspicion of H5N1 in wild birds

5.—(1) This regulation applies if the Department is of the opinion that—

- (a) the avian influenza virus of the H5 subtype is present in a wild bird or the carcass of a wild bird in Northern Ireland or the Republic of Ireland; and
- (b) either—
 - (i) it suspects that the neuraminidase type may be N1, or
 - (ii) the neuraminidase has been confirmed as N1.

(2) If the wild bird or carcass was found in Northern Ireland, the Department must declare—

- (a) a wild bird control area; and
 - (b) a wild bird monitoring area.
- (3) If the wild bird or carcass was found in the Republic of Ireland—
- (a) subject to sub-paragraphs (b) and (c), the Department may declare a wild bird control area or a wild bird monitoring area;
 - (b) the Department must, if the wild bird or carcass was found within three kilometres of the border with Northern Ireland, declare a wild bird control area of such size, shape and location as is necessary to complete the wild bird control area centred on the outbreak point in the Republic of Ireland; and
 - (c) the Department must, if the wild bird or carcass was found within ten kilometres of the border with Northern Ireland, declare a wild bird monitoring area of such size, shape and location as is necessary to complete the monitoring area centred on the outbreak point in the Republic of Ireland.
- (4) Paragraphs (2), (3)(b) and (3)(c) do not apply if the Department is satisfied, pursuant to a risk assessment, that—
- (a) H5N1 is not present in poultry, other captive birds or wild birds in the area which would otherwise be declared as the wild bird control area or the wild bird monitoring area; and
 - (b) the infected wild bird or carcass did not present a risk of spreading that virus to such birds in that area.
- (5) The risk assessment under paragraph (4) must take into account any geographical and ecological considerations.
- (6) An area remains a wild bird control area until—
- (a) the Department amends the declaration made under paragraphs (2)(a), (3)(a) or (3)(b) so that the area within its boundaries becomes part of the wild bird monitoring area; or
 - (b) the Department withdraws the declaration.
- (7) An area shall remain a wild bird monitoring area until the Department withdraws the declaration made under paragraph (2)(b), (3)(a) or (3)(c).
- (8) Subject to paragraph (9), premises which are only partly in a wild bird control area or a wild bird monitoring area are deemed to be wholly within that area.
- (9) Premises which are partly in a wild bird control area and partly in a wild bird monitoring area are deemed to be wholly in the wild bird control area.
- (10) Nothing in this regulation or regulation 6 which requires the Department to declare the extent of an area has the effect of requiring the Department to include land in the Republic of Ireland in such an area.

Extent of a wild bird control area and a wild bird monitoring area

- 6.—(1) A wild bird control area must—
- (a) be centred on the place where the wild bird or carcass referred to in regulation 5(1) was found (“the outbreak point”); and
 - (b) have a boundary which is at least three kilometres from the outbreak point.
- (2) A wild bird monitoring area must—
- (a) be centred on the outbreak point; and
 - (b) have a boundary which is at least ten kilometres from the outbreak point.
- (3) The Department must take into account the following factors in deciding the extent of any wild bird control area or wild bird monitoring area—
- (a) the geographical features of the proposed area;
 - (b) any administrative boundaries;
 - (c) any limnological factors;

- (d) any ecological factors;
- (e) any epizootic factors;
- (f) monitoring facilities; and
- (g) any other factor it considers relevant.

(4) Paragraphs (5) and (6) apply if the Department is satisfied, having carried out a risk assessment, that due to natural barriers or the absence of suitable habitats for wild birds, there is sufficient protection of poultry and other captive birds in the area that would otherwise be declared to be the wild bird control area.

(5) The wild bird control area may have a boundary which is at least one kilometre from the outbreak point.

(6) Where the outbreak point is less than one kilometre away from the bank of a river or the shore of a lake or coast, the wild bird control area may be an area of land which—

- (a) has a width of one kilometre width from that bank or shore; and
- (b) is at least three kilometres in length.

(7) The risk assessment under paragraph (4) must take account of the factors listed in paragraph (3).

(8) If the Department declares a wild bird control area of the dimensions provided for under paragraph (5) or (6), the wild bird monitoring area must be of such size and shape as the Department considers necessary to prevent the spread of avian influenza.

(9) A wild bird control area or a wild bird monitoring area declared under regulation 5(3)(a) must be of such size and shape as the Department considers necessary to prevent the spread of avian influenza.

Wild bird or carcase found within a protection zone or surveillance zone

7. If the wild bird or carcase referred to in regulation 5(1) is found within a protection zone or surveillance zone declared under regulation 28(1) to (4) of the Avian Influenza Regulations, the Department must, when declaring a wild bird control area and a wild bird monitoring area, consider, on the basis of a risk assessment, whether the control and monitoring areas should include part or all of the protection or surveillance zone.

Measures applicable in a wild bird control area or a wild bird monitoring area

8.—(1) The measures in Schedule 1 apply in respect of a wild bird control area including movements from that area.

(2) The measures in Schedule 2 apply in respect of a wild bird monitoring area including movements from that area.

(3) The biosecurity measures in Schedule 3 apply in respect of a wild bird control area and a wild bird monitoring area.

(4) Where the conditions in paragraph (5) are fulfilled, the Department may—

- (a) amend the declaration of the wild bird control area so that some or all of the measures listed at Parts I, II, III, IV or Part V paragraphs 1 to 3 of Schedule 1 no longer apply in respect of that area; and
- (b) amend the declaration of the wild bird monitoring area so that some or all of the measures listed in Schedule 2 no longer apply in respect of that area.

(5) The conditions are—

- (a) a risk assessment indicates that the disapplication of the measure in that wild bird control area or wild bird monitoring area would not endanger disease control;
- (b) there has been no outbreak of H5N1 in poultry or other captive birds in either of those areas;

- (c) the wild bird control area or wild bird monitoring area has been established for at least 21 days; and
- (d) the Department does not suspect there is avian influenza in poultry or other captive birds within either of those areas.

(6) When carrying out a risk assessment under paragraph (5)(a) the Department must take account of the factors listed at regulation 6(3).

(7) Paragraph (4)(b) does not apply in relation to the measures listed at paragraphs 4 and 6 of Schedule 2 where the Department has amended the declaration of a wild bird control area so that it has become part of the wild bird monitoring area before 21 days have elapsed from the date the sample was collected from the wild bird or carcass in accordance with regulation 12(1)(a).

(8) Paragraph (9) applies if—

- (a) at the time of its establishment, a wild bird control area or a wild bird monitoring area centred on the same outbreak point overlaps with a surveillance zone declared under regulation 28(1) to (4) of the Avian Influenza Regulations;
- (b) that surveillance zone is subsequently ended by a declaration; and
- (c) a risk assessment indicates that the disapplication in that wild bird control area of the measure or the regulation referred to in paragraph (9) would not endanger disease control.

(9) The Department may amend the declaration of the wild bird control area so that—

- (a) any of the measures listed in Schedule 1; or
- (b) regulation 11,

do not apply in respect of that wild bird control area.

Additional measures

9.—(1) The Department must, in its declaration of a wild bird control area or a wild bird monitoring area, impose such additional measures as it considers necessary to reduce the risk of the spread of avian influenza.

(2) When deciding what measures to impose under paragraph (1), the Department must consider whether measures are necessary to—

- (a) prevent direct or indirect contact which wild birds might otherwise have with poultry and other captive birds;
- (b) reduce the risk of feed and water provided to poultry and other captive birds being contaminated with the avian influenza virus or with any virus that causes avian influenza; and
- (c) reduce the risk of the spread of avian influenza between premises.

(3) The additional measures referred to in paragraph (1) include requirements that—

- (a) poultry or other captive birds are housed or otherwise kept separate from wild birds;
- (b) poultry or other captive birds or categories of such birds specified in the declaration are housed or otherwise kept separate from other poultry and captive birds;
- (c) poultry or other captive birds are provided with feed and water to which wild birds have no access;
- (d) keepers of poultry and other captive birds and others who come into contact with such birds cleanse and disinfect their footwear and take such other biosecurity measures as an inspector may require.

Restrictions relating to things moved from Great Britain

10.—(1) Measures in and under these Regulations applying in respect of any thing moved from a wild bird control area or a wild bird monitoring area apply in respect of any such thing moved from an equivalent area in Great Britain.

(2) Paragraph (1) only applies if the person to whom the measure applies is aware, or should reasonably have been aware, that the thing moved is from such an equivalent area.

Duty to inspect poultry premises

11.—(1) Subject to regulation 8(9), the Department must ensure that—

- (a) premises where poultry are kept within the wild bird control area or the wild bird monitoring area are identified as soon as is reasonably practicable; and
- (b) an inspector visits all premises where poultry are kept within the wild bird control area as often as the Department considers necessary to monitor the possible spread of avian influenza.

(2) Every inspector making such a visit must—

- (a) carry out a clinical inspection of poultry and any other captive birds that are on the premises and, if he is directed by the Department, collect samples for laboratory examination; and
- (b) assess the extent to which the biosecurity measures referred to in Schedule 3 are being applied.

Maintenance of areas

12.—(1) If the Department is of the opinion that the avian influenza virus of sub-type H5 present in the wild bird or carcase referred to in regulation 5(1)(a) is of neuraminidase N1, it must not—

- (a) amend any declaration made under regulation 5 so that the wild bird control area becomes part of the wild bird monitoring area until at least 21 days have elapsed from the date on which the sample showing the presence of the H5 virus was collected from that wild bird or carcase except where the conditions in paragraph (2) are fulfilled; or
- (b) withdraw any declaration made under regulation 5 until at least 30 days have elapsed from that date.

(2) The conditions referred to in paragraph (1)(a) are—

- (a) the Department has carried out an assessment of the risk of the possible spread of avian influenza, taking into account the factors listed in regulation 6(3), which indicates that the amendment of the declaration would not endanger disease control;
- (b) the Department has identified premises where poultry are kept within the wild bird control area in accordance with regulation 11(1)(a); and
- (c) an inspector has carried out at least one visit to each of those premises in accordance with regulation 11(1)(b) and the results of any laboratory tests carried out on samples taken from poultry or other captive birds on those premises in accordance with regulation 11(2)(a) have not given rise to the service of a notice under regulation 10(1) of the Avian Influenza Regulations.

(3) Where the Department amends a declaration so that a wild bird control area becomes part of the wild bird monitoring area before 21 days have elapsed from the date referred to in paragraph (1)(a), the declaration of the wild bird monitoring area may also be amended so that the size and shape of that area is varied, provided that the area remains of a size required under regulation 6(5) or (6).

(4) If the Department is of the opinion that the avian influenza virus of sub-type H5 present in the wild bird or carcase referred to in regulation 5(1)(a) is not of neuraminidase N1, it must withdraw any declaration made under regulation 5 without delay.

PART III

MISCELLANEOUS

Designation of premises to which things may be moved

13.—(1) Unless the Department directs otherwise by notice served on the occupier of the premises, the following premises are deemed to be designated for the purpose of receiving poultry, eggs or bird by-products (as the case may be) which are moved in accordance with these Regulations—

- (a) premises that are designated under regulation 71 of the Avian Influenza Regulations; and
- (b) the following plants, if approved under regulation 14 of the Animal By-Products Regulations (Northern Ireland) 2003(a);
 - (i) incineration plants,
 - (ii) processing plants,
 - (iii) oleochemical plants,
 - (iv) biogas plants,
 - (v) composting plants,
 - (vi) petfood plants, and
 - (vii) technical plants.

(2) A plant referred to in paragraph (1)(b) in England, Scotland or Wales which is designated respectively by the English Ministers, Scottish Ministers or the National Assembly for the same purposes as they are deemed to be designated under these Regulations are deemed to be designated for the purposes of these Regulations.

General duties relating to execution of these Regulations

14.—(1) A person required to give assistance or information to an inspector must, unless he has reasonable cause, do so without delay.

(2) A person shall not provide information which he knows to be false or misleading to an inspector.

(3) Any person to whom any requirement in a declaration, notice, licence, or designation under these Regulations applies must—

- (a) comply with the requirement (unless otherwise authorised by licence); and
- (b) comply with any reasonable requests which an inspector may make to him to ensure that the requirement is met.

Record keeping

15.—(1) A person moving poultry, other captive birds or their products under the authority of and in accordance with the conditions of a licence granted under these Regulations must—

- (a) within 24 hours after the movement, make a record of—
 - (i) what is moved, including its quantity,
 - (ii) the date of the movement,
 - (iii) the name of the consignor,
 - (iv) the address of the premises from which the movement started,
 - (v) the registration number of any vehicle used,
 - (vi) the name of the consignee,

(a) S.R. 2003 No. 495 as amended by S.R. 2006 No. 202

- (vii) the address of the destination; and
 - (b) retain it for at least six weeks from the date the movement was completed.
- (2) A person who is required under these Regulations to make any other record must retain it for at least twelve months from the date the record is made.
- (3) A person required to produce a record by an inspector must do so without delay.
- (4) On production of the record, an inspector may—
- (a) copy the record, in whatever form it is held;
 - (b) require any computer record to be produced in a form which can be taken away; and
 - (c) remove any record and retain it until he has carried out his functions under these Regulations.

Change of occupation of premises under restriction

16.—(1) This regulation applies if the keeper of any poultry or other captive bird is unable to move the poultry or other captive bird from premises on the termination of his right of occupation because of a movement restriction imposed by or under these Regulations and continues to apply for seven days after any such restriction has been removed.

(2) The person entitled to occupation of the premises on termination of the keeper's right of occupation must—

- (a) provide such facilities for feeding, tending or otherwise using the poultry or other captive bird (including selling it) as the keeper may reasonably require; and
- (b) allow entry to the premises to that keeper and any person authorised by him at reasonable times for feeding, tending or otherwise using the poultry or other captive bird.

(3) If the keeper is unable or unwilling to feed or tend the poultry or other captive bird, the person entitled to occupation of the premises must take such steps as are necessary to ensure it is properly fed and tended.

(4) The keeper is liable to pay the reasonable costs incurred by any person feeding or tending it, or providing facilities for feeding, tending or otherwise using it.

Cleansing and disinfection

17.—(1) A person who is required under these Regulations to carry out disinfection at any premises or of any thing must—

- (a) use disinfectants approved by the Department under the Diseases of Animals (Approval of Disinfectants) Order (Northern Ireland) 1972^(a) (“the disinfectants Order”) for the purposes of avian influenza;
- (b) use them at the concentrations approved under the disinfectants Order; and
- (c) use them in accordance with—
 - (i) the instructions of the manufacturer (if any), or
 - (ii) (if different) the instructions of an inspector.

(2) Where cleansing and disinfection of vehicles is required at any premises under these Regulations, the occupier of those premises must provide adequate facilities and proper equipment and materials for that cleansing and disinfection.

Veterinary investigations and marking

18.—(1) An inspector performing functions under these Regulations who enters any premises or inspects any vehicle may—

(a) S.R. & O. (N.I.) 1972 No. 16 as amended by S.R. 1975 No. 69, S.R. 1995 No. 467 and S.R. 2006 No. 42

- (a) mark, or cause to be marked, for identification purposes any bird, mammal, carcase or other thing;
- (b) count birds and mammals;
- (c) take samples from any bird, mammal, carcase or other thing;
- (d) take with him such people and things as he considers necessary.

(2) Any person who enters premises under paragraph (1)(d) may return unaccompanied to take any further steps necessary to carry out the relevant function.

(3) A person shall not deface, obliterate or remove any mark applied under paragraph (1)(a) except with the written authority of an inspector.

Duty to provide reasonable assistance

19.—(1) The occupier of any premises from or to which he wishes any thing to be moved under licence under these Regulations must allow an inspector to enter those premises for the purposes of deciding whether or not such a licence should be granted or maintained.

(2) The occupier must give all reasonable assistance to an inspector who visits the premises to examine the birds and to take samples.

General powers of inspectors

20.—(1) An inspector may, when performing his functions under these Regulations, require by notice the person in charge of any vehicle or equipment to cleanse and disinfect it.

(2) An inspector may—

- (a) cleanse and disinfect any part of premises or any thing on those premises;
- (b) require, by notice, the occupier of any premises to cleanse and disinfect any part of those premises or any thing on those premises;
- (c) require, by notice, the occupier of any premises or the keeper of any poultry or other captive bird—
 - (i) to keep or isolate any poultry, other captive bird or animal in a specified place,
 - (ii) to separate any poultry, other captive bird or animal from any other animal or bird;
- (d) require, by notice, the occupier of any premises or the person in charge of any thing to detain or isolate any vehicle, equipment or other thing.

(3) An inspector may require, by notice, the detention and isolation of any vehicle, equipment or other thing to ascertain whether the provisions of these Regulations are being complied with.

Powers of inspectors in case of default

21.—(1) If a person fails to comply with a requirement under these Regulations an inspector may take any steps he considers necessary to ensure the requirement is met or to prevent the spread of avian influenza, at the expense of that person.

(2) The powers of an inspector under paragraph (1) include powers to—

- (a) require, by notice, any person to take or refrain from specified action in respect of any place, animal, bird, vehicle, or other thing;
- (b) seize and detain any thing.

Enforcement, offences and proceedings

22. The following provisions of the 1981 Order shall apply as if these Regulations were an order made under the 1981 Order—

- (a) Article 6 (seizure and destruction of carcasses, etc., liable to spread disease);
- (b) Article 42 (functions of constables);

- (c) Article 46 (general powers of inspectors);
- (d) Article 46A (powers of inspectors relating to Community obligations);
- (e) Article 48 (power to detain vessels and aircraft);
- (f) Article 52 (offences);
- (g) Article 54 (defences and evidence);
- (h) Article 55 (extension of time for bringing summary proceedings);
- (i) Article 56 (venue); and
- (j) Article 57 (proceedings under Customs Acts for unlawful landing or shipping).

Sealed with the Official Seal of the Department of Agriculture and Rural Development on 23rd March 2007.



E. Redmond

A senior officer of the Department of Agriculture and Rural Development

MEASURES APPLICABLE IN RESPECT OF A WILD BIRD CONTROL AREA

PART I

MOVEMENT OF BIRDS

Prohibition on the movement of poultry or other captive birds from premises in a wild bird control area

1.—(1) A person may not move poultry or other captive birds from premises in a wild bird control area except under the authority of and in accordance with the conditions of a licence granted by the Department.

(2) The Department may not grant a licence for a movement under sub-paragraph (1) unless it is for a movement of—

- (a) poultry to any premises under official control in the wild bird control area or the wild bird monitoring area centred on the same outbreak point;
- (b) ready-to-lay pullets or turkeys for fattening to premises in the United Kingdom;
- (c) poultry to a designated slaughterhouse for slaughter;
- (d) day-old chicks hatched from eggs collected within the wild bird control area to premises in the United Kingdom which are subject to the following conditions—
 - (i) appropriate biosecurity measures are applied during transport and at the holding of destination,
 - (ii) the holding of destination is placed under official surveillance following the arrival of day-old-chicks;
- (e) day-old chicks hatched from eggs collected within the wild bird monitoring area centred on the same outbreak point as that control area to designated premises in the United Kingdom;
- (f) day-old chicks hatched from eggs collected outside the wild bird control area or outside the wild bird monitoring area centred on the same outbreak point, to any designated premises.

(3) Sub-paragraphs (2)(d),(e) or (f) apply to the movement of day-old chicks from a hatchery in a wild bird control area whether or not those day-old chicks are hatched from eggs originating in the area in question.

(4) The Department may not grant a licence under sub-paragraph (2)(f) unless it is satisfied that there was no contact, at the hatchery from which the day-old chicks are being moved, between the eggs from which the day old chicks were hatched and any other hatching eggs or day-old chicks originating from poultry within the wild bird control area or wild bird monitoring area.

Restriction on movement of poultry from premises of destination

2. If the Department grants a licence for a movement of—

- (a) ready to lay pullets or turkeys for fattening under paragraph 1(2)(b); or
- (b) day-old chicks to premises under paragraph 1(2)(d) outside the wild bird control area or the wild bird monitoring area centred on the same outbreak point,

the occupier of the premises to which they are moved must ensure that neither they nor any other poultry are moved off the premises for 21 days from the date when those ready to lay pullets, turkeys or day-old chicks arrived.

Slaughter of poultry

3.—(1) The occupier of a slaughterhouse to which poultry are moved in accordance with paragraph 1(2)(a) or 1(2)(c) must ensure that the poultry are slaughtered without delay.

(2) The occupier of a slaughterhouse which produces—

(a) fresh meat from poultry referred to in Part III paragraph 1(2)(c) which requires a licence for transport out of the wild bird control area to other parts of the United Kingdom under Part III paragraph 1; or

(b) fresh meat from such poultry for processing into processed fresh meat requiring such a licence or for incorporation into meat products requiring such a licence,

must ensure that the conditions in sub-paragraph (3) are fulfilled.

(3) The conditions are—

(a) poultry from premises in a wild bird control area must be kept separate from poultry from outside the wild bird control area;

(b) the poultry from within the area must be slaughtered separately or at different times from poultry from outside the area; and

(c) the part of the slaughterhouse, any equipment and any other thing which has been used for the slaughter or subsequent processing of poultry from within the area must be cleansed and disinfected in accordance with the instructions of an inspector before poultry from outside the wild bird control area are slaughtered in that part of the slaughterhouse, using that equipment or other thing.

Prohibition on the movement of poultry and other captive birds through a wild bird control area

4.—(1) A person shall not move poultry or other captive birds through a wild bird control area unless the movement is straight through the area on a major highway or railway.

(2) In this paragraph a movement “straight through” a wild bird control area means a movement into that area and then out of that area without stopping or unloading.

PART II

MOVEMENT OF HATCHING EGGS AND SPF EGGS

Prohibition on the movement of hatching eggs from a wild bird control area

1.—(1) A person shall not move any hatching egg which was collected from premises within a wild bird control area from premises in that area except under the authority of and in accordance with the conditions of a licence granted by the Department.

(2) The Department may not grant a licence under sub-paragraph (1), unless it is for the movement of hatching eggs—

(a) to a designated hatchery in accordance with sub-paragraph (3);

(b) to a designated laboratory, institute or vaccine manufacturer for scientific, diagnostic or pharmaceutical uses;

- (c) to an establishment for the manufacture of egg products as set out in Chapter II of Section X of Annex III to Regulations (EC) No. 853/2004(a);
- (d) for disposal.

(3) The Department may not grant a licence for a movement to an undesignated hatchery in accordance with sub-paragraph (2)(a) unless—

- (a) poultry on the premises from which the hatching egg is being moved have tested negative in a serological survey for avian influenza capable of detecting 5% prevalence of the disease with at least a 95% level of confidence, carried out to the satisfaction of the Department;
- (b) the eggs and their packaging are disinfected before dispatch;
- (c) the tracing back of the eggs can be ensured; and
- (d) the eggs are transported in sealed vehicles.

Prohibition on the movement of a SPF-egg from the wild bird control area

2.—(1) A person may not move a SPF-egg collected from premises in a wild bird control area from premises in that area except to a designated laboratory, institute or vaccine manufacturer for scientific, diagnostic or pharmaceutical uses except under the authority of and in accordance with the conditions of a licence.

(2) In sub-paragraph (1), “SPF-egg” means a hatching egg for use for diagnostic procedures in laboratories for the production and testing of vaccines and for research or pharmaceutical purposes.

Cleansing and disinfection at undesignated hatcheries

3. The occupier of an undesignated hatchery to which hatching eggs are moved in accordance with paragraph 1(2)(a) must—

- (a) ensure that trolleys and packaging trays used to transport hatching eggs to or from the hatchery are cleansed and disinfected before they leave the hatchery or are re-used; and
- (b) keep a record of any cleaning and disinfection carried out under sub-paragraph (a).

Separation of hatching eggs

4.—(1) A person moving hatching eggs out of the wild bird control area under paragraph 1(1) must ensure that those eggs do not come into contact with hatching eggs collected from premises outside that area.

(2) The occupier of an undesignated hatchery to which hatching eggs are moved in accordance with paragraph 1(2)(a) must ensure that those eggs do not come into contact with hatching eggs collected from premises outside the wild bird control area.

PART III

MOVEMENT OF CONTROLLED MEAT

Restriction on the movement of controlled meat out of a wild bird control area

1.—(1) A person shall not move controlled meat out of a wild bird control area except under the authority of and in accordance with the conditions of a licence granted by the Department.

(2) The Department may not grant a licence under sub-paragraph (1) unless it is for the movement of—

(a) O.J. No. L 139, 30.4.2004, p. 55, as last amended by O.J. No. L 320, 18.11.2006, p. 1

- (a) fresh meat from poultry produced in accordance with Annex II and Sections II and III of Annex III to Regulation (EC) No. 853/2004 and subject to the official controls set out in Sections I, II and III and Chapters V and VII of Section IV of Annex I to Regulation (EC) No. 854/2004 of the European Parliament and of the Council laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption^(a);
- (b) processed fresh meat or meat products produced from the fresh meat referred to in paragraph (a) in accordance with Sections V and VI of Annex III to Regulation (EC) No. 853/2004;
- (c) fresh meat from poultry, processed fresh meat from poultry or meat products from such fresh meat or processed fresh meat, other than the fresh meat, processed fresh meat and meat products referred to in sub-paragraphs (2)(a) and (b) to other parts of United Kingdom, provided—
 - (i) the meat or product is identified with the national mark described in paragraph 2(1) or with the mark described in paragraph 2(2); and
 - (ii) he is satisfied that the meat or product meets the conditions set out in paragraph 3;
- (d) fresh meat or processed fresh meat produced from poultry or wild game birds originating from an area which subsequent to such production is declared a wild bird control area, provided such meat has been obtained, cut and stored separately from poultry or wild game bird meat produced after the date when the control area is established;
- (e) meat products containing the meat referred to in paragraph (d) produced in establishments within the wild bird control area.

(3) A person other than the final consumer of meat marked with a mark referred to in sub-paragraph (2)(c) shall not deface, obliterate or remove that mark, unless licenced by the Department.

National mark

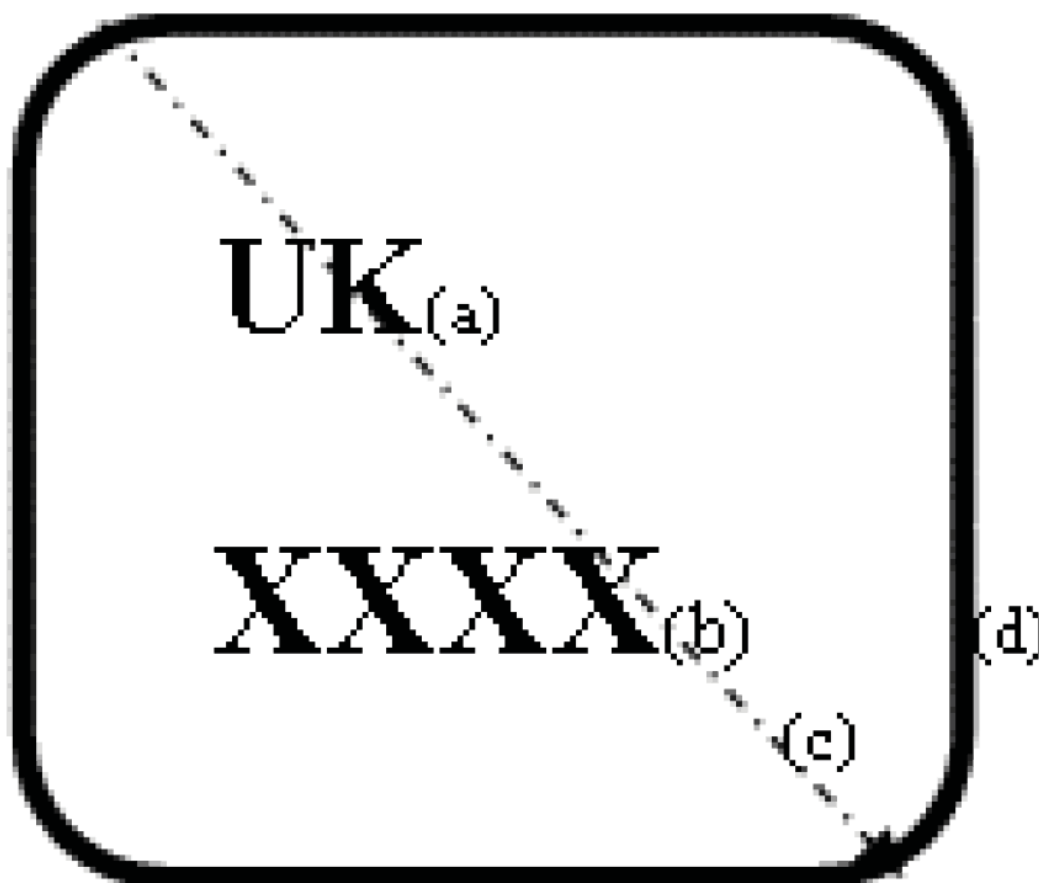
2.—(1) The national mark referred to in paragraph 1(2)(c)(i) must—

- (a) be square;
- (b) be clear and visible; and
- (c) contain in legible form, the following—
 - (i) on the upper part, the letters “UK”;
 - (ii) in the centre, the slaughterhouse approval number;
 - (iii) on the lower part, the letter “N”.

(2) The other identification mark referred to in paragraph 1(2)(c)(i) must be—

- (a) the shape set out below;
- (b) of the dimensions referred to below or of proportionate dimensions; and
- (c) legible to the naked eye.

(a) O.J. No. L 320, 18.11.2006, p. 11



- (a) UK – letters 8 mm high;
- (b) XXXX (where XXXX is the approval number of the premises, as referred to in point 7 of Part B of Section I of Annex II to Regulation (EC) No 853/2004) – numbers 11 mm high;
- (c) diameter (to outer edge of border) – not less than 30mm;
- (d) thickness of border – 3 mm.

Conditions for the movement of meat and products

3. The conditions referred to in paragraph 1(2)(c)(ii) are that the meat (or the meat from which the product was made) was obtained, cut and stored separately from—

- (a) controlled meat being moved under paragraphs 1(2)(a), (b) or (d); and
- (b) from meat from poultry from outside the wild bird control area.

Separation of controlled meat

4.—(1) A person moving controlled meat out of the wild bird control area under a licence granted in accordance with paragraph 1(2)(c) must ensure that it does not come into contact with controlled meat being moved under a licence granted in accordance with paragraphs 1(2)(a), (b) or (d) or any meat from poultry from outside that area.

(2) A person receiving controlled meat moved under a licence granted in accordance with paragraph 1(2)(c) must ensure that it is not used in meat products or meat preparations intended for placing on the market outside the United Kingdom unless it or the product or preparation in which it has been used has undergone a heat treatment at a minimum temperature of 70°C, which must be reached throughout the meat.

(3) If controlled meat referred to in paragraphs 1(2)(a), (b) or (d) comes into contact with meat referred to in paragraph 1(2)(c), the person moving such controlled meat must identify it in accordance with paragraph 1(2)(c) as soon as is reasonably practicable and must not transport it to premises outside the United Kingdom.

PART IV

MOVEMENT OF BY-PRODUCTS

Restriction on the movement of bird by-products or products derived from bird by-products from premises in a wild bird control area

1.—(1) A person may not move from a wild bird control area, a bird by-product derived from poultry, other captive birds or wild game birds originating from within that control area, or a product deriving from such by-products, except under the authority of and in accordance with the conditions of a licence granted by the Department.

(2) The Department may not grant a licence under sub-paragraph (1) unless it is for a movement of—

- (a) processed animal protein within the meaning of paragraph 42 of Annex I to Regulation (EC) No. 1774/2002 which complies with the requirements in Part A of Chapter II of Annex VII to that Regulation;
- (b) blood products within the meaning of paragraph 4 of Annex I to Regulation (EC) No. 1774/2002 which comply with the requirements in Part B of Chapter III of Annex VII to that Regulation;
- (c) rendered fats within the meaning of paragraph 50 of Annex I to Regulation (EC) No. 1774/2002 which comply with the requirements in Part A of Chapter IV of Annex VII to that Regulation;
- (d) gelatin within the meaning of paragraph 26 of Annex I to Regulation (EC) No. 1774/2002 which complies with the requirements in Part A of Chapter VI of Annex VII to that Regulation;
- (e) hydrolysed protein within the meaning of paragraph 31 of Annex I to Regulation (EC) No. 1774/2002 which complies with the requirements in Part B of Chapter VI of Annex VII to that Regulation;
- (f) dicalcium phosphate within the meaning of Part A of Chapter VII of Annex VII to Regulation (EC) No. 1774/2002 which complies with the requirements of Part A of Chapter VII of Annex VII to that Regulation;
- (g) tricalcium phosphate within the meaning of Part A of Chapter VIII of Annex VII to Regulation (EC) No. 1774/2002 which complies with the requirements of Part A of Chapter VIII of Annex VII to that Regulation;
- (h) collagen within the meaning of paragraph 59 of Annex I to Regulation (EC) No. 1774/2002 which complies with the requirements in Part A of Chapter IX of Annex VII to that Regulation;
- (i) egg products within the meaning of Part A of Chapter X of Annex VII to Regulation (EC) No. 1774/2002 which comply with the requirements of Part A of Chapter X of Annex VII to that Regulation;
- (j) processed petfood within the meaning of paragraph 43 of Annex I to Regulation (EC) No. 1774/2002 which complies with the requirements in Part B of Chapter II of Annex VIII to that Regulation;
- (k) dogchews within the meaning of paragraph 22 of Annex I to Regulation (EC) No. 1774/2002 which comply with the requirements in Part B of Chapter II of Annex VIII to that Regulation;

- (l) processed manure and processed manure products within the meaning of Part A of Chapter III(II) of Annex VIII to Regulation (EC) No. 1774/2002 which comply with the requirements for placing on the market in that Part;
- (m) game trophies of birds having undergone a complete taxidermy treatment ensuring their preservation at ambient temperatures within the meaning of paragraph 1(a) of Part A of Chapter VII of Annex VIII to Regulation (EC) No. 1774/2002;
- (n) by-products to a designated incineration plant, processing plant, oleochemical plant, biogas and composting plant, petfood plant or technical plant for disposal, treatment, transformation or use which ensures that no virus causing avian influenza remains;
- (o) by-products transported to users or collection centres authorised and registered in accordance with Article 23(4) of Regulation (EC) No. 1774/2002 for the feeding of animals after they have been treated in accordance with paragraph 5(a)(ii) of Annex IX to that Regulation or by another treatment which ensures that no virus causing avian influenza remains;
- (p) untreated feathers or parts of untreated feathers produced from poultry which comply with the requirements of point 1(a) of Part A of Chapter VIII of Annex VIII to Regulation (EC) No. 1774/2002;
- (q) poultry feathers, feathers from wild game birds or parts of such feathers which have been treated with a steam current or by another method which ensures inactivation of any virus causing avian influenza.

(3) The Department may not grant a licence under sub-paragraph (1) for the movement of the by-products listed in sub-paragraph (2)(a) to (i) unless they have also been processed at a processing plant which complies with the requirements of Annex V to Regulation (EC) No. 1774/2002.

(4) The prohibition in sub-paragraph (1) does not apply to a movement permitted under Part V paragraphs 1 or 2.

(5) The bird by-products referred to in sub-paragraph (2)(p) and (q) must be accompanied by the model commercial document in accordance with Chapter X of Annex II to Regulation (EC) No. 1774/2002.

(6) The commercial document accompanying the bird by-products referred to in sub-paragraph (2)(q) must state, at paragraph 6.1 of that document, that they have been treated with a steam current or with another method to ensure no virus causing avian influenza remains.

(7) Paragraph (5) does not apply to processed decorative feathers or processed feathers carried by travellers for their private use or consignments of processed feathers sent to private individuals for non-industrial purposes.

PART V

OTHER MEASURES

Prohibition on movement of poultry manure

1. A person may not move any manure from poultry or other captive birds from premises in a wild bird control area unless—

- (a) the movement is to an establishment for treatment in accordance with Regulation (EC) No. 1774/2002;
- (b) the poultry manure has already been so treated; or
- (c) it originates from premises from which poultry have been moved under the authority of and in accordance with the conditions of a licence granted under Part I paragraph 1(2)(a), (b) or (c).

Prohibition on the spread of poultry manure

2. A person may not spread any manure from poultry or other captive birds from premises in a wild bird control area unless—

- (a) it has been treated in accordance with Regulation (EC) No. 1774/2002; or
- (b) it originates from premises from which poultry have been moved under the authority of and in accordance with the conditions of a licence granted under Part I paragraph 1(2)(a), (b) or (c).

Prohibition on gatherings of poultry and other captive birds in a wild bird control area

3.—(1) A person may not arrange any fair, market, show, exhibition or other gathering involving the collecting together of poultry or other captive birds.

(2) A person may not bring any poultry or other captive birds to such a gathering.

Prohibition on hunting wild birds in a wild bird control area

4. A person may not hunt wild birds or otherwise take them from the wild in a wild bird control area except under the authority of and in accordance with the conditions of a licence granted by the Department.

Prohibition on the release of game birds

5. A person may not release game birds in a wild bird control area.

SCHEDULE 2

Regulation 8(2)

MEASURES APPLICABLE IN RESPECT OF A WILD BIRD MONITORING AREA

Prohibition on the movement of poultry and other captive birds from a wild bird monitoring area

1.—(1) A person may not move poultry or other captive birds from premises in a wild bird monitoring area before 15 days have elapsed since the declaration of the area, except under the authority of and in accordance with the conditions of a licence granted by the Department.

(2) The Department may not grant a licence for a movement under paragraph (1) unless it is a movement of—

- (a) poultry to a slaughterhouse within the wild bird monitoring area or the wild bird control area centred on the same outbreak point or to a designated slaughterhouse;
- (b) poultry to any premises under official control;
- (c) day-old chicks hatched from eggs which were collected from a premises within the wild bird monitoring area to premises under official control in Northern Ireland;
- (d) day-old chicks hatched from eggs which were collected from a premises within the wild bird control area centred on the same outbreak point as that wild bird monitoring area to premises under official control in Northern Ireland; or
- (e) day-old chicks hatched from eggs which were collected from a premises outside the wild bird monitoring area or wild bird control area centred on the same outbreak point to any premises.

(3) Sub-paragraphs (2)(c),(d) or (e) apply to the movement of day-old chicks from a designated hatchery in a wild bird monitoring area whether or not those day-old chicks are hatched from eggs originating in the area in question.

(4) The Department may not grant a licence for a movement under sub-paragraph (2)(e) unless it is satisfied that there was no contact, at the hatchery from which the day-old chicks are being moved, between the eggs from which the day-old chicks were hatched and any other hatching eggs or day-old chicks originating from poultry within the wild bird control area or the wild bird monitoring area.

Slaughter of poultry

2. The occupier of a slaughterhouse to which poultry are moved in accordance with paragraph 1(2)(a) must ensure that the poultry are slaughtered without delay.

Restriction on movement of poultry from premises of destination

3.—(1) If the Department grants a licence for a movement of day-old chicks under paragraph 1(2)(d) to designated premises outside the wild bird monitoring area, or outside the wild bird control area centred on the same outbreak point, the occupier of the designated premises to which they are moved must ensure that neither they nor any other poultry are moved off the premises for 21 days from the date when those day-old chicks arrived.

Prohibition on hunting wild birds in a wild bird monitoring area

4. A person may not hunt wild birds or otherwise take them from the wild in a wild bird monitoring area except under the authority of and in accordance with the conditions a licence granted by the Department

Prohibition on gatherings of poultry and other captive birds in a wild bird monitoring area

5.—(1) A person may not arrange any fair, market, show, exhibition or other gathering involving the collecting together of poultry or other captive birds.

(2) A person may not bring any poultry or other captive birds to such a gathering.

Prohibition on the release of game birds

6. A person may not release game birds in a wild bird monitoring area.

SCHEDULE 3

Regulation 8(3) and 11

BIOSECURITY MEASURES

1. This Schedule applies in respect of premises in the wild bird control area or a wild bird monitoring area where poultry or other captive birds are kept, other than slaughterhouses.

2. The occupier must provide and maintain means of disinfection at the entrances and exits of the premises and any buildings on the premises housing poultry or other captive birds.

3. A person entering or leaving premises must not wear clothing or footwear which is visibly soiled with mud, droppings, animal or bird faeces or any similar matter.

4. A person in charge of any vehicle entering or leaving premises must ensure that—

- (a) its wheels, wheel arches and mudflaps are cleansed and disinfected; and
- (b) its outside is not visibly soiled with mud, animal or bird faeces or any similar matter (unless it is carrying poultry).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement for Northern Ireland—

- (a) Commission Decision 2006/563/EC 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 (O.J. No L222, 15.8.2006, p11), as amended by the Commission Decision 2007/119/EC amending Decisions 2006/415/EC, 2006/416/EC and 2006/563/EC as regards the health mark to be applied to fresh poultry meat; and
- (b) Commission Decision 2007/118/EC establishing an alternative health mark pursuant to Directive 2002/99/EC.

Regulations 5, 6 and 7 provide that if avian influenza of subtype H5 is present in a wild bird or wild bird carcase and that the Department suspects or confirms that the neuraminidase type is N1, it must, subject to a derogation, declare a wild bird control area and a wild bird monitoring area.

Regulation 8 introduces Schedules 1 – 3 and sets out the circumstances in which the Department can amend a declaration so that certain measures do not apply in respect of those areas.

Regulation 9 provides that the Department may in its declaration of a wild bird control area or a wild bird monitoring area, impose additional measures to those set out in the Schedules.

Regulation 10 sets out restrictions on the movement of any thing from Great Britain.

Regulation 11 requires commercial premises in a wild bird control area or a wild bird monitoring area to be inspected to monitor the spread of avian influenza.

Regulation 12 sets out the circumstances in which the Department can either amend a declaration of a wild bird control area so that it becomes part of the wild bird monitoring area or revoke the declaration of either area.

Regulation 13 deems premises to be designated for the purpose of receiving poultry, eggs or bird by-products unless the Department directs otherwise.

Regulations 14 to 15 relate to the provision of information and reasonable assistance, record keeping and to compliance with requirements laid down under the Regulations.

Regulation 16 provides for the feeding and tending of animals or poultry which cannot be moved on termination of a right of occupation because of a restriction imposed by the Regulations.

Regulation 17 relates to cleansing and disinfection.

Regulations 18 to 22 set out powers of inspectors and contain measures related to the enforcement of the Regulations.

Schedule 1 sets out the measures that are to apply in respect of a wild bird control area including measures relating to the movement of birds (Part I), the movement of hatching eggs (Part II), the movement of meat (Part III), the movement of poultry by-products (Part IV) and the use or movement of manure, the hunting or release of birds and bird gatherings (Part V) and other provisions relating to the measures to be taken at premises receiving birds or their products from the area.

Schedule 2 sets out the measures that are to apply in respect of a wild bird monitoring area including measures relating to the movement of birds and prohibitions on bird gatherings and the hunting or release of birds.

Schedule 3 sets out the biosecurity measures that are to apply in respect of premises where poultry or other captive birds are kept in a wild bird control area or a wild bird monitoring area.

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