

POLICY NOTE

THE AVIAN INFLUENZA (H5N1 IN BIRDS ETC.) (MISCELLANEOUS AMENDMENT AND REVOCATION) (SCOTLAND) ORDER 2021

SSI 2021/444

The above instrument is made in exercise of the powers conferred by sections 1, 7, 8(1), 11, 17(1), 23 and 25 of the Animal Health Act 1981 and all other powers enabling Scottish Ministers to do so.

The instrument is subject to no procedure.

Purpose of the instrument.

The instrument amends legislation concerned with the control measures to be put in place where avian influenza of the subtype H5N1 is present in birds, so that those measures are only to be put in place where the strain of the virus is a significant risk to public health.

The instrument also amends measures restricting the movement of eggs from premises and areas infected with avian influenza, to allow the movement to be authorised even if the eggs are not in disposable packaging.

Policy Objectives

Commission Decision 2006/563/EC (concerning certain protection measures in relation to highly pathogenic avian influenza (HPAI) of subtype H5N1 in wild birds in the Community) required Member States to take certain measures to control the risk of spread after detecting a wild bird infected with HPAI H5N1 including establishing a wild bird control zone and a wild bird monitoring area. The Commission Decision was implemented in Scotland by the Avian Influenza (H5N1 in Wild Birds) (Scotland) Order 2007. The purpose of the Commission Decision was to protect public health from the spread of the Asian strain of HPAI H5N1 which at the time of the Decision, was causing multiple poultry outbreaks and wild bird cases in Europe and spill-over human infections in South-east Asia. The human pandemic potential was unknown and therefore precautions around the spread of the virus were put in place. A further Commission Decision 2006/415/EC made provision for the control measures to be put in place where H5N1 was present in poultry and which was implemented in Scotland by the Avian Influenza (H5N1 in Poultry) (Scotland) Order 2007.

Since October 2021 there has been a rapidly deteriorating epizootic situation across GB and mainland Europe, where the European strain HPAI H5N1 appears to be the dominant subtype. This strain of HPAI H5N1 has no increased affinity for mammalian cell receptors than previously identified European strains of such H5 viruses and poses no particular risk to public health. The amendments therefore amend the Avian Influenza (H5N1 in Wild Birds) (Scotland) Order 2007 and the Avian Influenza (H5N1 in Poultry) (Scotland) Order 2007 to increase the threshold criteria for control measures to include public health as a reason for intervention, requiring control measures to be put in place where necessary for public health but avoiding the need to apply a derogation for strains with no increased affinity for mammalian cells and a situation where Scottish Ministers would be required to impose unnecessary control measures on the finding of H5N1 in birds where there are no significant public health concerns. Commission Decision 2006/415/EC has ceased to apply and, within

the EU, wild bird control zones and wild bird monitoring areas are not required where HPAI H5N1 of the European strain with no mammalian affinity is present in wild birds. Commission Decision 2006/563/EC is revoked by this instrument given that the provisions of the Decision are more particularly implemented in Scotland by the Avian Influenza (H5N1 in Wild Birds) (Scotland) Order 2007

Amendments are also made to the Avian Influenza and Influenza of Avian Origin in Mammals (Scotland) Order 2006 to reflect changes in the way industry now operates. This will allow a more proportionate and pragmatic approach to the licencing of eggs from premises in a protection zone, surveillance zone and a low pathogenic avian influenza restricted zone. Industry has moved away from single use cardboard trays to recyclable key trays. A robust inspection process is in place at designated packing centres, and can be required by licence, to ensure recycled plastic trays are cleansed and disinfected with approved disinfectants prior to reuse during disease outbreaks. The changes are consistent with legislative changes that have been made within the EU on the movement of eggs from premises and areas affected by avian influenza.

Consultation

Scottish Government officials have been in discussions with the UK Government and Welsh Government on changes to the controls on finding of highly pathogenic H5N1 in wild birds removing the need to apply zones where there are no significant public health risks associated with the strain identified. Similar changes are being made in England and Wales. The Scottish Government has discussed these proposed changes with its main operational partners and poultry industry sector through the GB Avian Diseases Core Group and they are supportive of these changes. A more comprehensive review of legislation around controls for avian influenza will be carried out, taking into account changes in the EU Animal Health Regulation.

Impact Assessments

Full impact assessments have not been prepared for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen. The changes are deregulatory and therefore there should be no impact on business, charities or voluntary bodies.

Financial Effects

The Cabinet Secretary for Rural Affairs and Islands confirms that no BRIA is necessary, as the instrument has no additional financial effects on the Scottish Government, local government or on business.

Scottish Government
Agriculture and Rural Economy Directorate

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