
STATUTORY INSTRUMENTS

2006 No. 1197

**The Avian Influenza and Influenza of Avian
Origin in Mammals (England) Order 2006**

PART 1

Introduction

Title, application and commencement

1.—(1) This Order may be cited as the Avian Influenza and Influenza of Avian Origin in Mammals (England) Order 2006.

(2) This Order applies in England only and comes into force at 6.00pm on 27th April 2006.

Interpretation

2. In this Order—

“the Act” means the Animal Health Act 1981;

“avian influenza” means an infection of poultry or other captive 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;

“border inspection post” means a place specified as such in Schedule 2 to the Animal and Animal Products (Import and Export) Regulations 2005⁽¹⁾;

“carcase” means the carcase of any bird and includes any part of a carcase;

“the Chief Veterinary Officer” means the Chief Veterinary Officer of the Department for Environment, Food and Rural Affairs;

“commercial poultry premises” means commercial premises where poultry are kept;

“commercial premises” means premises where poultry or other captive birds are kept for commercial purposes and does not include premises where all poultry and their eggs are kept by their owners for their own consumption or use or, in the case of poultry, as pets;

“competent authority” means the authority in a member State authorised by it to carry out its functions under the Directive;

“contact premises” has the meaning given in article 26;

“controlled zone” means a protection zone, a surveillance zone, a restricted zone, a temporary movement restriction zone, a temporary control zone, a low pathogenic avian influenza restricted zone, an avian influenza prevention zone, or an avian influenza (restrictions on mammals) zone;

“day-old chick” means all 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;

- “designated” means designated by the Secretary of State in accordance with article 71;
- “the Directive” means Council Directive [2005/94/EC](#) on Community measures for the control of avian influenza and repealing Directive [92/40/EEC](#)(2);
- “dispose” means deal with in accordance with the Animal By-Products Regulations 2005(3);
- “the Divisional Veterinary Manager” means the veterinary inspector of the State Veterinary Service with this title appointed by the Secretary of State for the area in which premises are located;
- “highly pathogenic avian influenza” means an infection of poultry or other captive birds caused by—
- (a) avian influenza viruses of the subtypes H5 or H7 with genome sequences codifying for multiple basic amino acids at the cleavage site of the haemagglutinin molecule similar to that observed for other highly pathogenic avian influenza viruses, indicating that the haemagglutinin molecule can be cleaved by a host ubiquitous protease; or
 - (b) avian influenza viruses with an intravenous pathogenicity index in six-week old chickens greater than 1.2;
- “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;
- “low pathogenic avian influenza” means an infection of poultry or other captive birds caused by avian influenza viruses of subtypes H5 or H7 other than avian influenza viruses of subtypes H5 or H7 which cause highly pathogenic avian influenza;
- “mammal” means any mammal, except man;
- “non-commercial premises” means premises where poultry or other captive birds are kept by their owners for their own consumption, use or as pets;
- “occupier” means the person in charge of premises;
- “other captive bird” means a bird kept in captivity which is not poultry and includes a pet bird and a bird kept for shows, races, exhibitions, competitions, breeding or for sale;
- “poultry” means a bird reared or kept in captivity for the production of meat or eggs for consumption, or of other products, for restocking supplies of game or for the purposes of any breeding programme for the production of such categories of birds;
- “premises” includes any land, building or other place;
- “prohibition notice” has the meaning given in article 35(4);
- “quarantine centre” means premises where imported birds are quarantined on arrival in England;
- “racing pigeon” means any pigeon transported or intended for transport from its pigeon house so that it may be released and freely fly back there or to another destination;
- “regulated place” means a slaughterhouse, quarantine centre or border inspection post;
- “slaughterhouse” means an establishment used for slaughtering poultry, the meat of which is intended for human consumption;
- “special category premises” has the meaning given in article 22(3);
- “unregulated period of infection” has the meaning given in article 23(3);
- “vehicle” includes any means of transport and includes—

(2) OJ No L10, 14.1.2006, p16.

(3) S.I. [2005/2347](#).

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

“veterinary surgeon” means a person who is registered in the register of veterinary surgeons maintained by the Royal College of Veterinary Surgeons or in the supplementary register maintained by the College.

Scope of the Act and of this Order

3.—(1) For the purposes of the Act in its application to avian influenza and to this Order—

- (a) the definition of “poultry” in section 87(4) of the Act is extended to include all birds;
- (b) the definition of “animals” in section 87(1) of the Act is extended to include all mammals, except man;
- (c) the definition of “disease” in section 88(1) of the Act is extended to include any infection in mammals caused by influenza virus of avian origin.

(2) Section 32 of the Act applies to any infection in mammals caused by influenza virus of avian origin.

(3) This Order does not apply to anything done in accordance with a licence under the Specified Animal Pathogens Order 1998(4).

Declarations, licences, notices and designations under this Order

4.—(1) Declarations under this Order—

- (a) must be in writing;
- (b) may be amended or revoked, by further declaration in writing, at any time;
- (c) must designate the extent of any controlled zone being declared;
- (d) must list or refer to the measures which apply in such a zone and state whether they apply in all or part of the zone; and
- (e) must state to which categories of bird or mammal measures apply;
- (f) must, where they designate a controlled zone, be ended by further declaration.

(2) Licences under this Order—

- (a) must be in writing;
- (b) may be general or specific;
- (c) may, in addition to any conditions required by this Order, be made subject to such conditions as the Secretary of State considers necessary to control avian influenza; and
- (d) may be amended, suspended or revoked, in writing, at any time.

(3) Notices under this Order—

- (a) may be amended or revoked, by further notice, at any time;
- (b) must specify whether they apply to all or part of premises;
- (c) must, if they apply to part of premises, specify to which part they apply.

(4) Designations under this Order—

- (a) must be in writing;

- (b) may be made subject to such conditions as the Secretary of State considers necessary to control avian influenza;
 - (c) may be amended, suspended or revoked in writing at any time.
- (5) The Secretary of State must take such steps as she considers fit to ensure that declarations, licences, notices and designations are brought to the attention of those who may be affected by them as soon as is reasonably practicable.
- (6) The Secretary of State must, in particular, ensure that the extent of any zone declared under this Order, the nature of the restrictions and requirements applicable within it and the dates of its declaration and withdrawal are publicised.
- (7) Except as otherwise directed by the Secretary of State in a declaration of a controlled zone or by notice to the licence holder—
- (a) licences granted in Scotland, Wales or Northern Ireland for activities which could be licensed in England under this Order have effect in England as if they were licences granted under this Order; and
 - (b) premises in Scotland, Wales and Northern Ireland designated respectively by the Scottish Ministers, the National Assembly or by the Department for Agriculture and Rural Development of Northern Ireland for the same purposes as they may be designated under this Order are deemed to be designated by the Secretary of State for the purposes of this Order.
- (8) A person moving anything under the authority of a specific licence granted under this Order must—
- (a) keep the licence or a copy of it with him at all times during the licensed movement;
 - (b) on demand by an inspector, a veterinary inspector or by another officer of the Secretary of State, produce the licence and allow a copy or extract to be taken; and
 - (c) on such demand, furnish his name and address.
- (9) A person moving anything under the authority of a general licence granted under this Order must—
- (a) carry with him, at all times during the licensed movement, a consignment note which contains details of—
 - (i) what is moved (including its quantity);
 - (ii) the date of the movement;
 - (iii) the name and address of the originating premises;
 - (iv) the name and address of the destination;
 - (b) on demand by an inspector, a veterinary inspector or by another officer of the Secretary of State, produce the consignment note and allow a copy or extract to be taken; and
 - (c) on such demand, furnish his name and address.
- (10) Unless the Secretary of State declares otherwise in a declaration of a controlled zone or by notice to the occupier or any premises or to the owner or occupier of any vehicle, any movement which has already started when such a declaration comes into force may be completed.

Controlled zones

5.—(1) Subject to paragraph (2), premises which are only partly in a controlled zone are deemed to be wholly within the controlled zone.

(2) Premises in any controlled zone which are partly in one of the following zones and partly in another are deemed to be wholly in the zone furthest up the following list—

- (a) protection zone;
- (b) surveillance zone;
- (c) restricted zone;
- (d) temporary control zone;
- (e) temporary movement restriction zone;
- (f) low pathogenic avian influenza restricted zone;
- (g) avian influenza prevention zone.

(3) Every controlled zone (other than an avian influenza prevention zone) is an infected area for the purposes of the Act.

PART 2

Preventive measures

Measures to reduce the risk of transmission of avian influenza

6.—(1) If the Secretary of State considers it necessary (having carried out a risk assessment) to reduce the risk of transmission of avian influenza to poultry or other captive birds from wild birds or from any other source, she must do one or more of the following—

- (a) declare an avian influenza prevention zone in all or part of England;
- (b) serve a notice on the occupier of any premises where poultry, other captive birds or any categories of poultry or captive birds specified in the notice are kept;
- (c) ban or limit the collection of poultry or other captive birds at any fair, market, show, exhibition, race or other gathering.

(2) The Secretary of State must, in her declaration of an avian influenza prevention zone or in the notice, impose such restrictions and requirements as she considers necessary to reduce the risk of transmission of avian influenza and must consider, in particular, the measures necessary—

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

(3) The Secretary of State's powers under paragraph (2) include powers—

- (a) to require poultry and other captive birds to be housed or otherwise kept separate from wild birds;
- (b) to require species of poultry or other captive birds specified in the declaration to be housed or otherwise kept separate from other poultry and captive birds;
- (c) to require that poultry and other captive birds are provided with feed and water to which wild birds have no access;
- (d) to prohibit the use of birds of the orders *Anseriformes* (including ducks, geese and swans) and *Charadriiformes* (including gulls, murrets, terns, avocets, puffins, woodcock, oystercatchers, sandpipers, plovers, surfbirds, snipes and skimmers) as decoys during bird hunting;

- (e) to require keepers of poultry and other captive birds and others who come into contact with such birds to cleanse and disinfect their footwear and take such other biosecurity measures as a veterinary inspector may require.

Surveillance for avian influenza

7.—(1) The Secretary of State must carry out surveillance at such premises and of such birds as she considers necessary—

- (a) to detect the prevalence in different species of poultry of infection with avian influenza virus subtypes H5 and H7; and
- (b) to assess the risk of the spread of influenza of avian origin by wild birds.

(2) The Secretary of State must give notice to the occupier of premises selected by her for the purposes of such a survey.

PART 3

Measures on suspicion of avian influenza

Disapplication of measures to regulated places

8. Articles 10 to 17 do not apply to regulated places.

Notification procedures and precautions to be taken where avian influenza is suspected

9.—(1) A person who has in his possession or under his charge any bird or carcase which has, or which he suspects may have, avian influenza must—

- (a) immediately notify the Divisional Veterinary Manager; and
- (b) take all reasonable steps to ensure that the restrictions and requirements set out in Schedule 1 are complied with.

(2) A person who examines or inspects any bird or carcase or who analyses any sample taken from any bird or carcase and who suspects the presence of avian influenza in the bird, carcase or sample must immediately inform the Divisional Veterinary Manager.

Notice of restrictions where avian influenza is suspected on premises

10.—(1) If an inspector suspects that avian influenza or avian influenza virus exists on any premises or has existed there within 56 days (whether or not notification has been made under article 9), he must serve a notice on the occupier of the premises requiring him to comply with such of the restrictions and requirements set out in Schedule 1 as are specified in the notice.

(2) An inspector must not withdraw the notice of restrictions unless instructed to do so by the Chief Veterinary Officer.

(3) An inspector must also notify the occupier of any additional measures which the Secretary of State considers should apply to the premises in exercise of her powers under article 13(b).

Derogations from restrictions applicable at suspect premises

11.—(1) A veterinary inspector or an inspector acting under his authority may, in a notice served under article 10 or by licence, grant derogations from paragraphs 2 to 4 of Schedule 1.

(2) The Secretary of State must not grant such a derogation unless she has considered—

- (a) the risk of the possible spread of avian influenza were the derogation to be granted;
 - (b) any precautionary measures which have been or which could be taken; and
 - (c) the destination of any birds or things which would be moved were the derogation to be granted.
- (3) A veterinary inspector (or an inspector acting under the authority of a veterinary inspector) may, in a notice served under article 10 or by licence, also grant a derogation from the disinfection requirement in paragraph 9 of Schedule 1, but must not do so unless—
- (a) the premises the subject of the derogation are non-commercial premises;
 - (b) the premises contain other captive birds but no poultry;
 - (c) he has considered the risk of the possible spread of avian influenza were the derogation to be granted and any precautionary measures which have been or which could be taken.

Veterinary inquiries and sampling

12.—(1) The Secretary of State must, if she suspects that poultry or other captive birds on or moved from premises the subject of a notice under article 10 may be infected with avian influenza, ensure that a veterinary inquiry is started at those premises as soon as reasonably practicable to ascertain whether the disease exists or has existed there.

(2) The Secretary of State must, if she authorises a veterinary inspector or another veterinary surgeon to take samples from poultry or other captive birds on other premises or other than for the purposes of such a veterinary inquiry, direct (by notice to the occupier of the premises) whether any of the requirements set out in Schedule 1 apply to the premises where the samples are taken.

Measures to minimise the risk of the spread of avian influenza from suspect premises

13. The Secretary of State must, if she considers it necessary to minimise the risk of the spread of avian influenza or of avian influenza virus from suspect premises in England, Wales, Scotland or Northern Ireland, take one or more of the following measures—

- (a) declare a temporary movement restriction zone in such part or parts of England as she considers necessary;
- (b) serve a notice on the owner or occupier of suspect premises in England requiring him to comply with some or all of the measures set out in Schedule 2 (as well as those set out in Schedule 1);
- (c) declare a temporary control zone in such part of England and of such size as she considers necessary around suspect premises.

Restrictions where avian influenza is suspected in transit

14. A person exercising powers under articles 10 to 13 must take into account any measures taken in respect of vehicles under articles 38, 42, 43 and 45.

Measures in a temporary movement restriction zone

15.—(1) The Secretary of State must, in a declaration of a temporary movement restriction zone (and in relation to such part or parts of the zone as she thinks fit), ban or restrict the movement of such of the following as she considers necessary—

- (a) poultry;
- (b) other captive birds;
- (c) eggs;

- (d) vehicles used to transport poultry, other captive birds, eggs or anything else likely to transmit avian influenza;
- (e) mammals.

(2) If the Secretary of State bans or restricts the movement of mammals within a temporary movement restriction zone, she must lift the ban or restriction within 72 hours of it being declared unless she is satisfied that its continuation is necessary to minimise the risk of the spread of avian influenza (notwithstanding any continuing restrictions on the movement of other things listed in paragraph (1)).

(3) If the Secretary of State imposes restrictions on the movement of mammals beyond 72 hours from when they were originally declared, she must review her decision to impose such restrictions a maximum of 72 hours after each renewal.

Additional restrictions at suspect premises

16. In a notice served under article 13(b), the Secretary of State must specify—

- (a) which of the measures set out in Schedule 2 apply; and
- (b) whether restrictions apply—
 - (i) to all poultry and other captive birds on the premises;
 - (ii) only to poultry or other captive birds suspected of being infected;
 - (iii) only to part of the premises.

Declaration of a temporary control zone around the suspect premises

17. The Secretary of State must in a declaration of a temporary control zone (in relation to premises in such part or parts of the zone as she thinks fit), impose such measures as she considers necessary to reduce the risk of the spread of avian influenza.

PART 4

Measures on confirmation of highly pathogenic avian influenza at premises other than regulated places

Disapplication of measures to regulated places

18. This Part does not apply to regulated places.

Restrictions on confirmation of highly pathogenic avian influenza

19. If the Chief Veterinary Officer confirms that highly pathogenic avian influenza or highly pathogenic avian influenza virus exists on any premises, a veterinary inspector must (by notice to the occupier of the infected premises), impose, in addition to the restrictions and requirements set out in Schedule 1, the restrictions and requirements contained in Schedule 2.

Killing of birds on premises

20. The Secretary of State must, subject to article 21, ensure that poultry and other captive birds to be killed under paragraph 5 of Schedule 3 to the Act are killed without delay on the premises where they are kept.

Movement of birds off premises for killing

21. If the Secretary of State considers that killing birds off suspect premises would limit the risk of the spread of avian influenza more effectively, she may—

- (a) direct, by notice to the occupier of the premises where the birds are located, that killing of the birds specified in the notice be carried out at a place specified in the notice; and
- (b) license the movement of those birds to that place.

Measures on special category premises

22.—(1) The Secretary of State must not license the movement from special category premises of birds not killed under paragraph 5 of Schedule 3 to the Act unless she is satisfied, following tests on the birds, that they are not infectious.

(2) A veterinary inspector must not license a movement to another member State unless the movement is authorised by the competent authority of that member State.

(3) The following are special category premises—

- (a) non-commercial premises;
- (b) circuses;
- (c) zoos;
- (d) pet shops;
- (e) wildlife parks;
- (f) fenced areas where poultry or other captive birds are kept for scientific purposes or for purposes related to the conservation of endangered species;
- (g) premises or parts of premises where only breeds of poultry or other captive birds which the Secretary of State considers to be rare are kept.

Tracing of meat and eggs from infected premises

23.—(1) The Secretary of State must (subject to paragraph (2)) endeavour to trace from infected premises—

- (a) the meat of all poultry slaughtered during the unregulated period of infection;
- (b) poultry eggs laid at the premises during that period; and
- (c) poultry hatched from such eggs.

(2) The Secretary of State need not trace meat or poultry eggs moved from retail premises.

(3) “Unregulated period of infection” means the period from the date when, in the opinion of a veterinary inspector, avian influenza may first have been introduced to premises to the date when restrictions were imposed in relation to the premises under article 9.

Measures when meat and eggs have been traced

24.—(1) The Secretary of State must ensure that any meat traced from infected premises in accordance with article 23 is destroyed.

(2) The Secretary of State must—

- (a) ensure that all eggs so traced are disposed of or moved directly to premises for the manufacture of egg products in accordance with a licence granted by a veterinary inspector; and

- (b) require, by notice to the occupier of any premises to which poultry already hatched from eggs so traced have been moved, that the poultry are not moved off the premises for at least 21 days from the date they arrived there.
- (3) A person moving eggs under a licence granted under sub-paragraph 2(a) must ensure that—
 - (a) each consignment of eggs is sealed by a veterinary inspector or in accordance with his instructions before dispatch;
 - (b) vehicles used to transport the eggs to the plant have been cleansed and disinfected before the eggs are loaded.
- (4) No person shall tamper with a seal attached under sub-paragraph 3(a) or remove it before the consignment arrives at the premises.

Veterinary inquiry at infected premises

25. The Secretary of State must ensure that veterinary inquiries continue at all infected premises for such period as she considers necessary.

Identification of contact premises

- 26.—**(1) The Secretary of State must serve a notice on the occupier of any premises if she suspects—
- (a) that highly pathogenic avian influenza may have been carried there from other premises; or
 - (b) that highly pathogenic avian influenza may have been carried to other premises from there.
- (2) Premises in respect of which a notice is served under this article are contact premises.

Restrictions at contact premises

27.—(1) The provisions of Schedule 1 apply to contact premises until the Secretary of State notifies the occupier that those restrictions are withdrawn or that the premises are infected premises.

(2) The Secretary of State may, by notice to the occupier of contact premises, also require the occupier to comply with one or more of the requirements of Schedule 2.

(3) When considering whether to require an occupier to comply with any of the requirements of Schedule 2, the Secretary of State must take at least the following criteria into account—

- (a) the existence of any clinical signs of avian influenza in any birds on the contact premises;
- (b) the susceptibility to avian influenza of the species of poultry on the contact premises;
- (c) any movements of poultry or other captive birds from infected premises to the contact premises after the earliest date a veterinary inspector considers avian influenza may have been introduced to the infected premises;
- (d) the density of poultry in the area where the contact premises are located;
- (e) the duration of the outbreak of avian influenza and its spread from infected premises;
- (f) the proximity of the contact premises to infected premises;
- (g) epidemiological links between the contact premises and infected premises;
- (h) the extent to which measures to control the outbreak are working.

(4) When considering the proximity of the contact premises to infected premises under sub-paragraph 3(f), the Secretary of State must give particular consideration to whether she should impose measures on premises which are—

- (a) within 500 metres of infected premises; or

(b) which are 500 metres or more from infected premises but are in an area with a high density of poultry.

(5) When considering epidemiological links between the contact premises and infected premises in accordance with sub-paragraph (3)(g), the Secretary of State must give particular consideration to whether she should impose measures on premises with links to more than one infected premises.

(6) If the Secretary of State requires poultry or other captive birds on a contact premises to be killed, she must ensure that samples are taken from the dead birds and tested for avian influenza.

Declaration of protection, surveillance and restricted zones

28.—(1) The Secretary of State must, on confirmation by the Chief Veterinary Officer of highly pathogenic avian influenza on premises in England, declare a protection zone and a surveillance zone around the infected premises.

(2) The Secretary of State must, on confirmation by the Chief Veterinary Officer of highly pathogenic avian influenza in an area of Scotland or Wales which is 3 kilometres or less from England, declare a protection zone and a surveillance zone in England.

(3) The Secretary of State must, on confirmation by the Chief Veterinary Officer of highly pathogenic avian influenza in an area of Scotland or Wales which is more than 3 and up to 10 kilometres from England—

- (a) declare a surveillance zone in England; and
- (b) declare a protection zone in England (if she considers it necessary to prevent the spread of avian influenza).

(4) The Secretary of State may declare protection and surveillance zones in England on confirmation by the Chief Veterinary Officer of highly pathogenic avian influenza in an area of Scotland or Wales which is more than 10 kilometres from England.

(5) The Secretary of State must, if she considers it necessary to reduce the risk of the spread of avian influenza, declare one or more restricted zones in addition to protection and surveillance zones.

(6) Paragraphs (1), (2) and (3) do not affect the power of the Secretary of State to disapply measures or to apply alternative measures under articles 30(2), 31(2) and 33.

Size of zones

29.—(1) A protection zone declared under paragraphs (1), (2) or (3) of article 28 must—

- (a) be centred on the part of the infected premises which the Secretary of State considers most appropriate, given the nature of the outbreak; and
- (b) have a radius of at least 3 kilometres.

(2) A surveillance zone declared under paragraphs (1), (2) or (3) of article 28 must—

- (a) be centred on the part of the infected premises which the Secretary of State considers most appropriate, given the nature of the outbreak; and
- (b) have a radius of at least 10 kilometres.

(3) A restricted zone must—

- (a) either
 - (i) be centred on the part of the infected premises which the Secretary of State considers most appropriate, given the nature of the outbreak; or
 - (ii) be adjacent to the surveillance zone or to another restricted zone; and
- (b) be of such size as the Secretary of State considers necessary.

(4) The Secretary of State must take account of the criteria set out in paragraph (5) when deciding—

- (a) what size zones to declare under paragraphs (1), (2) and (3) of article 28; and
- (b) whether to declare restricted zones under paragraph (5) of article 28.

(5) The criteria referred to in paragraph (4) are—

- (a) the results of veterinary inquiries;
- (b) the geographical features of the area around the infected premises;
- (c) the location and proximity of other premises containing poultry and other captive birds in the area;
- (d) patterns of movement of and trade in poultry and other captive birds in the area;
- (e) the facilities and personnel available to control movements within the zone (including any movement of poultry or other captive birds off premises for slaughter and disposal).

(6) Protection zones and surveillance zones declared under paragraph (4) of article 28 must be centred on the part of the premises which the Secretary of State considers most appropriate, given the nature of the outbreak, and must be of such size as she considers necessary to reduce the risk of the spread of avian influenza.

Measures in protection zones

30.—(1) The measures in Schedule 4 apply in respect of a protection zone, subject to paragraph (2) and articles 33 and 35.

(2) The Secretary of State may in her declaration of the protection zone, if she has carried out a risk assessment and does not believe that to do so would endanger disease control—

- (a) disapply one or more of those measures to movements of racing pigeons into, from and within the zone;
- (b) disapply one or more of the measures set out in paragraph 14 of Schedule 4 (restrictions on the movement of birds, eggs, poultry meat and carcasses) and article 63(2) (restrictions on the movement of meat) if—
 - (i) the premises where avian influenza has been confirmed are special category premises; and
 - (ii) avian influenza has been confirmed in poultry on those premises.

(3) The Secretary of State must ensure that—

- (a) premises containing poultry and other captive birds within a protection zone are identified as soon as possible; and
- (b) a veterinary inspector examines poultry and other captive birds at all such premises, carrying out examinations at commercial premises as soon as possible.

(4) The Secretary of State may, notwithstanding sub-paragraph (3)(b), authorise a reduced level of surveillance to that provided for in that sub-paragraph—

- (a) if the premises on which avian influenza is confirmed are special category premises; and
- (b) if she is satisfied that this would not endanger disease control.

(5) The Secretary of State must ensure that such veterinary inquiries as she considers necessary to monitor for avian influenza are carried out at premises to which things are moved within and out of a protection zone.

Measures in surveillance zones

31.—(1) The measures in Schedule 5 apply in respect of a surveillance zone, subject to paragraph (2) and articles 33 and 35.

(2) The Secretary of State may, if she has carried out a risk assessment and does not believe that to do so would endanger disease control—

- (a) disapply one or more of those measures to movements of racing pigeons into, from and within the zone;
- (b) disapply one or more of the measures set out in paragraphs 6, 11 or 15 of Schedule 5 (restrictions on the movement of poultry and eggs within and outside the zone and of poultry, other captive birds and mammals onto premises) if—
 - (i) the premises where avian influenza has been confirmed are special category premises; and
 - (ii) avian influenza has been confirmed in poultry on those premises.

(3) The Secretary of State must ensure that all commercial poultry premises within a surveillance zone are identified as soon as possible.

Restrictions on trade in things from areas where measures have been disapplied

32. No person shall allow any poultry, other captive bird, hatching egg, used litter, manure or slurry from premises in respect of which any of the measures in Schedule 4 or 5 have been disapplied under articles 30 or 31 to be supplied for intra-Community or international trade, unless licensed by a veterinary inspector.

Alternative measures where avian influenza is confirmed at a hatchery or in other captive birds on special category premises

33.—(1) If the Secretary of State is satisfied, following confirmation of highly pathogenic avian influenza at a hatchery or in other captive birds on special category premises, that applying less stringent measures than those set out in articles 28 to 31 would not endanger disease control, she may decide—

- (a) not to make a declaration of any controlled zone around the premises;
- (b) to declare fewer zones than required under article 28;
- (c) to declare a controlled zone smaller in size than provided for in article 29;
- (d) to specify in her declaration of a controlled zone that one or more of the measures set out in Schedules 4 and 5 do not apply in that zone.

(2) The Secretary of State must carry out a risk assessment before reaching a decision under paragraph (1).

Measures in restricted zones

34.—(1) The Secretary of State must, in a declaration of a restricted zone under article 28(5), apply, in each zone so declared, such measures as she considers necessary to reduce the risk of the spread of avian influenza.

(2) These measures may include some or all of the measures set out in Schedules 4 and 5 and article 35.

Additional measures in protection, surveillance and restricted zones

35.—(1) The Secretary of State must, if she considers it necessary to reduce the risk of the spread of avian influenza, impose (by declaration) measures additional to those set out in Schedules 4 and 5.

(2) The Secretary of State's power to declare additional measures includes the power to prohibit or restrict—

- (a) the movement of vehicles or people involved in—
 - (i) the supply of animal feed;
 - (ii) the supply of agricultural equipment;
 - (iii) the collection of eggs;
 - (iv) the transport of poultry to slaughterhouses;
 - (v) the collection of carcasses for disposal;
- (b) the movement of those working on premises, including veterinary surgeons;
- (c) the movement of any person onto any premises (including common, unenclosed and waste land and agricultural buildings), notwithstanding the existence of any public footpath or right of way.

(3) The power to prohibit or restrict movement under paragraph (2)(c) applies only in relation to a protection zone and does not include a power to prohibit or restrict movement onto premises by—

- (a) the owner or occupier of the premises;
- (b) any person whose principal residence or place of employment is those premises;
- (c) an officer of the Secretary of State or an inspector;
- (d) any person entering under the authority of a licence granted by a veterinary inspector or by an inspector under the direction of a veterinary inspector.

(4) An inspector must cause a notice of a prohibition declared in accordance with paragraph (2)(c) (“a prohibition notice”) to be displayed at every entrance to the prohibited place.

Ending of protection, surveillance and restricted zones

36.—(1) The Secretary of State may, by declaration, end a protection zone but must not, in the case of a protection zone declared under paragraph (1), (2) or (3) of article 28 do so until—

- (a) at least 21 days have elapsed since the completion at all infected premises in the zone of the preliminary cleansing and disinfection measures referred to in Part 2 of Schedule 3; and
- (b) a veterinary inquiry has been completed on all premises within the zone identified as containing poultry or other captive birds.

(2) On the ending of any protection zone, the area which formed that protection zone shall become part of the associated surveillance zone.

(3) The Secretary of State may, by declaration, end a surveillance zone but, in the case of a zone declared under paragraphs (1), (2) or (3) of article 28, must not do so until at least 30 days have elapsed since the completion at all infected premises in the zone of the preliminary cleansing and disinfection measures referred to in Part 2 of Schedule 3.

PART 5

Measures on suspicion or confirmation of highly pathogenic avian influenza in regulated places and vehicles

Veterinary measures at slaughterhouses

37.—(1) The Secretary of State must, if she suspects that highly pathogenic avian influenza exists at any slaughterhouse or has confirmed that it exists there—

- (a) serve a notice on the occupier of the slaughterhouse informing him of this; and
- (b) ensure that a veterinary inquiry is carried out at the slaughterhouse.

(2) No person shall move poultry from any slaughterhouse where highly pathogenic avian influenza is suspected or has been confirmed.

Veterinary measures where avian influenza is suspected or confirmed in vehicles

38.—(1) The Secretary of State must, if she suspects that highly pathogenic avian influenza or highly pathogenic avian influenza virus exists in any vehicle or has confirmed that it exists there—

- (a) serve a notice on the person in charge of the vehicle informing him of this; and
- (b) ensure that a veterinary inquiry is carried out in relation to the vehicle.

(2) An inspector who knows or suspects that any poultry or other captive birds in transit are infected or contaminated with avian influenza may serve a notice on the keeper of the bird—

- (a) directing movement of the bird to such premises as the inspector thinks fit; and
- (b) requiring the detention at such place as the inspector directs of any vehicle, equipment or other thing suspected of being contaminated until it has been cleansed and disinfected as directed by the inspector.

(3) Any expenses arising from the transport of any bird (including feeding, watering and any other expenses incurred in relation to the welfare of the bird) must be paid by its owner.

Killing of birds in slaughterhouses where disease is suspected or confirmed

39. The occupier of a slaughterhouse where highly pathogenic avian influenza is suspected or confirmed must ensure that all poultry present on the premises at the date a notice is served on him under article 37(1) are killed there without delay and in accordance with a veterinary inspector's instructions.

Poultry meat and by-products in slaughterhouses where disease is suspected or confirmed

40.—(1) The occupier of a slaughterhouse where highly pathogenic avian influenza is suspected or confirmed must, in accordance with a veterinary inspector's instructions—

- (a) keep poultry referred to in article 39 separate from any other poultry subsequently arriving at the slaughterhouse; and
- (b) keep the following separate from other carcasses, poultry meat and by-products—
 - (i) carcasses and poultry meat from poultry referred to in article 39;
 - (ii) the by-products of such poultry;
 - (iii) poultry meat from any other poultry which may have been contaminated at the slaughterhouse during the killing of such poultry or the production process;
 - (iv) the by-products of the poultry referred to in paragraph (iii).

- (2) Paragraph (1) applies to poultry moved to a slaughterhouse—
- (a) from a border inspection post in accordance with article 41(2), as if references to article 39 were to that article; and
 - (b) on a vehicle in accordance with article 42, as if references to article 39 were to that article.
- (3) The occupier of a slaughterhouse where highly pathogenic avian influenza is confirmed must, in accordance with the Secretary of State's instructions, dispose of the things set out in subparagraphs (1)(b) or assist a veterinary inspector in removing those things from the premises.

Measures at border inspection posts

41.—(1) The Secretary of State must, if she considers it necessary to reduce the risk of the spread of disease—

- (a) require a veterinary inquiry to be carried out at a border inspection post where avian influenza is suspected or has been confirmed; and
 - (b) impose (by notice to the occupier of the border inspection post) such of the measures set out in Schedule 1 as she considers appropriate.
- (2) The Secretary of State must, by notice to the occupier of the border inspection post, direct where birds specified in the notice are to be killed, slaughtered or isolated.
- (3) The Secretary of State must ensure that poultry and other captive birds at border inspection posts which are to be killed under paragraph 5 of Schedule 3 to the Act are killed or slaughtered without delay.
- (4) The Secretary of State must ensure that poultry and other captive birds which are not to be so killed or slaughtered are kept isolated in accordance with a veterinary inspector's instructions.

Measures if avian influenza is suspected or confirmed in a vehicle

42. The Secretary of State must, by notice to the owner or driver of any vehicle transporting birds which are suspected or confirmed as having highly pathogenic avian influenza, direct where birds specified in the notice are to be moved to be killed, slaughtered or isolated.

Cleansing and disinfection of regulated places and vehicles

- 43.**—(1) The occupier of any regulated place where highly pathogenic avian influenza is suspected or confirmed must cleanse and disinfect those premises and any equipment and vehicles on those premises which may be contaminated in accordance with a veterinary inspector's instructions.
- (2) The owner or driver of any vehicle on which highly pathogenic avian influenza is suspected or confirmed must cleanse and disinfect the vehicle in accordance with a veterinary inspector's instructions.

Reintroduction of poultry and other captive birds

- 44.**—(1) No person shall reintroduce poultry to a slaughterhouse where highly pathogenic avian influenza was suspected or confirmed until an inspector has confirmed that the cleansing and disinfection referred to in article 43 has been carried out.
- (2) No person shall reintroduce poultry or other captive birds to a border inspection post where highly pathogenic avian influenza was suspected or confirmed until an inspector has confirmed that the cleansing and disinfection referred to in article 43 has been carried out.
- (3) The Secretary of State may, by notice to the occupier of such a border inspection post, and if she considers it necessary to reduce the risk of the spread of avian influenza, prohibit the introduction

of animals other than birds onto the premises until such cleansing and disinfection has been carried out.

Measures at other premises

45.—(1) The Secretary of State must, if she suspects that highly pathogenic avian influenza or highly pathogenic avian influenza virus exists at any slaughterhouse or in any vehicle or has confirmed that it exists there—

- (a) apply the measures set out in Schedule 1 to the premises of origin;
- (b) apply the measures set out in Schedule 1 to premises which she considers to be suspect premises (because of their epidemiological link with the premises of origin);
- (c) apply the measures set out in Schedule 2 to the premises of origin, unless she is satisfied (having considered the results of veterinary inquiries) that this is not necessary.

(2) The Secretary of State must, if she suspects that highly pathogenic avian influenza exists at any border inspection post or has confirmed that it exists there, apply the measures set out in Schedule 1 to premises which she considers to be suspect premises (because of their epidemiological link with the border inspection post).

(3) The Chief Veterinary Officer must apply measures under this article by notice to the occupier of the relevant premises.

(4) In this article, “premises of origin” means any premises from which poultry or other captive birds which may be infected were moved to the slaughterhouse or on the vehicle.

PART 6

Measures on confirmation of low pathogenic avian influenza

Measures when low pathogenic avian influenza is confirmed

46.—(1) If the Chief Veterinary Officer confirms low pathogenic avian influenza on any premises other than regulated places, the Secretary of State must—

- (a) apply (by notice to the occupier of the premises) such of the measures set out in Part 1 of Schedule 6 as she considers necessary to reduce the risk of the spread of avian influenza; and
- (b) ensure that a veterinary inquiry continues at the infected premises.

(2) The Secretary of State must not permit any movement otherwise prohibited under Part 1 of Schedule 6 unless she is satisfied that it would not significantly increase the risk of the spread of low pathogenic avian influenza.

(3) When reaching a decision under paragraph (2), the Secretary of State must, in particular, take into account the criteria set out in Part 2 of Schedule 6.

(4) An inspector who knows or suspects that any poultry or other captive bird in transit is infected or contaminated with avian influenza may serve a notice on the keeper of the bird—

- (a) directing transport of the bird to such premises as the inspector thinks fit; and
- (b) requiring the detention at such place as the inspector directs of any vehicle, equipment or other thing suspected of being contaminated until it has been cleansed and disinfected as directed by the inspector.

(5) Any expenses arising from the transport of any bird (including feeding, watering and any other expenses incurred in relation to the welfare of the bird) must be paid by its owner.

Killing of poultry and other captive birds

47.—(1) The Secretary of State must ensure that poultry and other captive birds on premises where low pathogenic avian influenza is confirmed and which are to be killed on the premises under paragraph 5 of Schedule 3 to the Act are killed as soon as possible.

(2) The occupier of a slaughterhouse must ensure that poultry from premises where low pathogenic avian influenza has been confirmed are killed as soon as possible.

(3) The Secretary of State must not authorise movement to a slaughterhouse unless she is satisfied that the movement would not significantly increase the risk of the spread of low pathogenic avian influenza.

(4) The Secretary of State must ensure that birds are killed or slaughtered in such a way as to reduce the risk of the spread of avian influenza.

Movement of eggs from premises where low pathogenic avian influenza is confirmed

48.—(1) If the Secretary of State directs that poultry on any premises where low pathogenic avian influenza is confirmed are to be slaughtered at a slaughterhouse, she must not license the movement of eggs off the premises prior to the poultry being sent for slaughter unless she is satisfied that the movement would not significantly increase the risk of the spread of low pathogenic avian influenza.

(2) The Secretary of State may only license the movement of such eggs—

- (a) to a designated packing centre, in disposable packaging;
- (b) to an establishment for the manufacture of egg products; or
- (c) for disposal.

Veterinary surveillance of poultry

49. The Secretary of State must ensure that any premises where poultry are kept before being sent to a slaughterhouse under article 47 are kept under veterinary surveillance.

Measures on special category premises

50.—(1) The occupier of special category premises where low pathogenic avian influenza has been confirmed but poultry and other captive birds are not killed under paragraph 5 of Schedule 3 to the Act must ensure that—

- (a) poultry and other captive birds are housed or isolated (if, in the view of a veterinary inspector, housing is impractical or would adversely affect the birds' welfare to a significant degree);
- (b) no poultry or other captive bird is moved from the premises except—
 - (i) to a designated slaughterhouse or other premises in accordance with a licence granted by a veterinary inspector; or
 - (ii) to a slaughterhouse in another member State or to other premises in another member State, if the movement is licensed by a veterinary inspector and is authorised by the competent authority of that member State.

(2) The occupier of the premises must take all reasonable steps to minimise contact between birds isolated under paragraph (1)(a) and wild birds.

(3) A veterinary inspector must not grant a licence under paragraph (1)(b) unless he is satisfied, following tests on the birds, that there is not a significant risk that the proposed movement would spread highly pathogenic avian influenza.

Veterinary surveillance of birds

51. The Secretary of State must ensure that birds on special category premises which are not killed under paragraph 5 of Schedule 3 of the Act are monitored for avian influenza.

Tracing of poultry and eggs

52.—(1) The Secretary of State must endeavour to trace from premises where low pathogenic avian influenza has been confirmed—

- (a) hatching eggs from poultry laid during the unregulated period of infection; and
- (b) poultry hatched from eggs laid during that period.

(2) The Secretary of State must ensure that such veterinary inquiries as she considers necessary to monitor for avian influenza are carried out at premises to which eggs and poultry are so traced.

Identification of contact premises

53.—(1) The Secretary of State must serve a notice on the occupier of any premises (other than regulated places) if she suspects—

- (a) that low pathogenic avian influenza may have been carried there from other premises; or
- (b) that low pathogenic avian influenza may have been carried to other premises from there.

(2) Premises in respect of which a notice is served under this article are contact premises for the purposes of this Part.

Restrictions at contact premises

54.—(1) The provisions of Schedule 1 apply to contact premises until the Secretary of State notifies the occupier that those measures no longer apply.

(2) The Secretary of State must, if she considers it necessary to prevent the spread of low pathogenic avian influenza, direct that contact premises be deemed to be infected premises to which such of the provisions of this Part and of Schedule 6 as she directs apply.

(3) A direction under paragraph (2) must be by notice to the occupier of the contact premises and the Secretary of State must not serve such a notice unless she has taken into account at least the criteria set out in paragraph (3) of article 27, as read with paragraphs (4) and (5) of article 27.

(4) If the Secretary of State requires poultry or other captive birds on contact premises to be killed, she must ensure that samples are taken from the dead birds and tested for avian influenza.

Declaration of a low pathogenic avian influenza restricted zone

55.—(1) The Secretary of State must, on confirmation by the Chief Veterinary Officer of low pathogenic avian influenza on premises other than regulated places in England (and subject to paragraph (4)), declare a low pathogenic avian influenza restricted zone around the infected premises.

(2) The Secretary of State must, on confirmation by the Chief Veterinary Officer of low pathogenic avian influenza in an area of Scotland or Wales which is less than 1 kilometre from England, declare a low pathogenic avian influenza restricted zone in England.

(3) The Secretary of State may declare a low pathogenic avian influenza restricted zone on confirmation by the Chief Veterinary Officer of low pathogenic avian influenza in an area of Scotland or Wales which is 1 kilometre or more from England.

(4) The Secretary of State may, on the basis of a risk assessment, decide not to declare a low pathogenic avian influenza restricted zone if the premises where low pathogenic is confirmed are—

- (a) a hatchery; or
- (b) special category premises.

Size of zones

56. A low pathogenic avian influenza restricted zone must be centred on the part of the infected premises which the Secretary of State considers the most appropriate, given the nature of the outbreak, and have a radius of at least 1 kilometre.

Measures in low pathogenic avian influenza restricted zones

57.—(1) The measures in Schedule 7 apply in respect of a low pathogenic avian influenza restricted zone, subject to paragraphs (2) and (3).

(2) The Secretary of State may, if she has carried out a risk assessment and does not believe that to do so would endanger disease control, disapply in her declaration under article 55 some or all of the measures set out in Schedule 7 if the premises where avian influenza has been confirmed are a hatchery or special category premises.

(3) The Secretary of State may, if she considers it necessary to reduce the risk of the spread of avian influenza, impose (by declaration) measures additional to those set out in Schedule 7.

(4) The Secretary of State must ensure that—

- (a) commercial premises in the zone containing poultry or other captive birds are identified as soon as possible;
- (b) tests for avian influenza are carried out on commercial poultry premises within a radius of at least 1 kilometre of the boundary of the infected premises or, if she thinks it more appropriate, of the part of the infected premises where avian influenza was found.

PART 7

Measures to reduce the risk of the spread of influenza viruses of avian origin to other species

Tests on animals at premises where avian influenza is confirmed

58.—(1) The Secretary of State must ensure that any pigs kept on premises where avian influenza is confirmed are tested for infection with influenza virus of avian origin.

(2) The Secretary of State may, if she thinks it necessary to prevent the spread of avian influenza or influenza of avian origin, require such tests to be carried out on other mammals kept on the premises.

Killing of mammals

59. The Secretary of State must ensure that pigs to be killed under section 32 of the Act are—

- (a) killed as soon as possible, in accordance with a veterinary inspector's instructions;
- (b) transported in accordance with a veterinary inspector's instructions (if they are moved off the premises for slaughter).

Movements off the premises

60.—(1) No person shall (subject to paragraph (2)) move any mammal tested under article 58 off the premises until a veterinary inspector has confirmed that the mammal is not infective and licenses the movement.

(2) A veterinary inspector may license the movement of pigs and other mammals in which infection with influenza virus of avian origin is confirmed to other premises (including slaughterhouses) if he is satisfied (as a result of further tests on the animals) that the movement would not significantly increase the risk of the spread of avian influenza.

Measures at other premises

61.—(1) The Secretary of State may, after carrying out a risk assessment and by notice to the occupier of contact premises, impose such of the requirements set out in articles 58, 59 and 60 as she considers necessary.

(2) Premises where influenza virus of avian origin may have been carried from premises where the virus has been confirmed or from where the virus may have been carried to the latter are contact premises for the purposes of this Part.

Additional measures to control the spread of virus in mammals

62.—(1) The Secretary of State may, if she considers it necessary to monitor or detect the spread of avian influenza or influenza virus of avian origin in mammals—

- (a) require surveillance for avian influenza or influenza virus of avian origin to be carried out on any premises; and
- (b) impose (by declaration of an avian influenza (restrictions on mammals) zone or by notice to the occupier of any premises) such measures additional to those set out in articles 58 to 60 as she considers necessary.

(2) An avian influenza (restrictions on mammals) zone must be of such size as the Secretary of State considers necessary to reduce the risk of the spread of avian influenza or influenza of avian origin in mammals.

PART 8

General measures on suspicion or confirmation of avian influenza

Treatment, labelling and movement of meat from poultry from a protection zone

63.—(1) The occupier of a slaughterhouse within or outside a protection zone to which poultry from premises in a protection zone are sent must ensure that—

- (a) the poultry are kept separate from poultry from outside the zone;
- (b) the poultry are slaughtered separately or at different times from poultry from outside the zone; and
- (c) the part of the slaughterhouse and any equipment and any other thing which has been used for the slaughter or subsequent processing of the poultry are cleansed and disinfected in accordance with a veterinary inspector's instructions before poultry from outside the zone are slaughtered.

(2) No person shall move poultry meat from any slaughterhouse, cutting plant or cold store in a protection zone unless—

- (a) the poultry from which it was produced originated outside a protection zone and meat from it is stored and transported separately from meat produced from poultry originating in a protection zone;
 - (b) the poultry meat was produced at least 21 days before the date a veterinary inspector estimates as the date of earliest infection at premises in the protection zone and has been stored and transported separately from meat produced after that date; or
 - (c) the poultry meat was produced from poultry originating in the protection zone and complies with the requirements set out in paragraph (3);
 - (d) the Secretary of State declares otherwise, in a declaration made in accordance with article 30(2)(b).
- (3) Poultry meat from poultry originating in the protection zone and referred to in paragraph (2) (c) must—
- (a) not be supplied for intra-Community or international trade;
 - (b) be marked in accordance with the Secretary of State’s instructions;
 - (c) be obtained, cut, stored and transported separately from meat intended for intra-Community or international trade;
 - (d) not be used in meat products intended for intra-Community or international trade unless—
 - (i) it is obtained, cut, transported and stored separately from poultry meat intended for such trade; and
 - (ii) it has been heat treated at a minimum temperature of 70°C, which temperature must be reached throughout the meat.
- (4) Poultry meat from poultry originating outside a protection zone must be cut, transported and stored separately from poultry meat from poultry originating in such a zone.
- (5) In this article, “meat product” means a product resulting from the processing of poultry meat or from the further processing of such a product, the cut surface of which shows that it is no longer fresh meat.

Poultry moved to premises outside controlled zones other than for slaughter

64.—(1) The occupier of any premises not in a protection zone or a surveillance zone to which day-old chicks hatched from eggs originating in such a zone are moved must ensure that they are not moved off the premises for at least 21 days from the date they arrived there.

(2) The occupier of any premises not in a protection zone or a surveillance zone to which ready-to-lay poultry from a protection zone are moved must ensure that they are not moved off the premises for at least 21 days from the date they arrived there.

(3) The occupier of any premises outside a low pathogenic avian influenza restricted zone to which poultry are moved from such a zone must ensure that the poultry are not moved off the premises for at least 21 days from the date they arrived there.

(4) The occupier of any premises to which any thing is moved under this article must, for at least 21 days from the date the thing was moved to the premises, make the following daily records—

- (a) the number or approximate number of poultry (if any) on the premises;
- (b) the number of poultry falling ill on the premises;
- (c) the number of poultry dying on the premises;
- (d) the amount of feed and, where possible, water being consumed by any poultry on the premises;
- (e) any egg production on the premises.

(5) The occupier of commercial poultry premises must ensure that records made under paragraph (4) are kept for at least 6 weeks from the date the last record was made.

(6) The Secretary of State must ensure that such veterinary inquiries as she considers necessary to monitor for avian influenza take place at the premises to which things are moved.

Movements to egg processing plants

65.—(1) The occupier of an egg processing plant to which eggs are moved from suspect premises (under paragraph 6 of Schedule 1) or from infected premises during the unregulated period of infection (under article 24(2)(a)) must ensure that—

- (a) the eggs are kept separate from other eggs at the plant from the time they arrive until they are processed;
- (b) the shells of the eggs are disposed of;
- (c) the packaging used to transport the eggs is destroyed or cleansed and disinfected;
- (d) any person involved in the handling and processing of eggs takes appropriate biosecurity measures.

(2) The owner or driver of any vehicle used to transport eggs to an egg processing plant must ensure that it is cleansed and disinfected before the eggs are loaded and after they are unloaded.

(3) Any person involved in the transportation of eggs to an egg processing plant must take such biosecurity measures as he considers necessary to prevent the spread of disease.

Cleansing, disinfection and treatment

66.—(1) Any person who is required under this Order to cleanse, disinfect or treat any premises (other than regulated places) or any thing (including any vehicle under his control) on those premises must do so in accordance with Schedule 3.

(2) Any person who is required under this Order to cleanse, disinfect or treat regulated places, any thing on those premises or any vehicle not referred to in paragraph (1) must do so in accordance with a veterinary inspector's instructions.

(3) A veterinary inspector may, by notice to the occupier of premises referred to in paragraph (1), provide that part of the premises the subject of that notice and which would otherwise be subject to the requirements of Schedule 3 are subject instead to the requirements of paragraph (2).

(4) Any person who is required to disinfect under this Order must—

- (a) use disinfectants authorised by the Secretary of State under the Diseases of Animals (Approved Disinfectants) Order 1978(5);
- (b) use them at the concentrations approved under that Order; and
- (c) use them—
 - (i) in accordance with the manufacturer's instructions (if any); or
 - (ii) (if a veterinary inspector has instructed otherwise), in accordance with those instructions).

(5) A veterinary inspector must, by notice to the occupier of any premises or to the owner or driver of any vehicle, require the destruction of any thing which may be contaminated with avian influenza virus and which he considers cannot be cleansed, disinfected or treated.

(6) A veterinary inspector may, by notice to the occupier of any premises where avian influenza has been confirmed—

(5) [S.I. 1978](#), amended by [S.I. 2005/1908](#); there are other amending instruments but none is relevant.

- (a) prohibit the keeping of poultry or other captive birds on the premises or on any part of the premises where he believes avian influenza virus may still exist; and
 - (b) prohibit the entry of any person, vehicle, poultry, other captive bird, mammal or thing onto any premises or part of premises which he believes cannot be cleansed and disinfected.
- (7) A veterinary inspector must not revoke a notice served under paragraph (6) unless—
- (a) at least a year has passed since the date the notice was served; or
 - (b) (in the case of fields on the premises or of any other part of the premises which is not a building or part of a building), the Chief Veterinary Officer has confirmed that he may do so.

Restocking

67.—(1) No person shall (unless licensed by a veterinary inspector) restock suspect premises, infected premises or contact premises if poultry or other captive birds kept on those premises have been killed under paragraph 5 of Schedule 3 to the Act.

(2) A veterinary inspector must not license the restocking of commercial poultry premises until at least 21 days after the date final cleansing and disinfection was completed at the premises in accordance with Part 2 of Schedule 3.

Surveillance at restocked commercial poultry premises

68.—(1) The Secretary of State must ensure that the following measures are taken a maximum of 21 days after the date any poultry are brought onto commercial poultry premises or part of those premises for restocking—

- (a) the examination of any poultry on the premises by a veterinary inspector;
- (b) the taking from such poultry of such samples as the Secretary of State requires and the laboratory testing of such samples for avian influenza;
- (c) the testing for avian influenza of such poultry which die on the premises as a veterinary inspector considers necessary.

(2) A veterinary inspector who examines poultry under paragraph (1)(a) may carry out more than one examination of the birds and shall ensure that he carries out at least one examination as close as possible to the end of the 21 day period referred to in paragraph (1).

Additional measures at restocked commercial poultry premises

69.—(1) The occupier of commercial poultry premises which have been restocked must, for at least 21 days from the date of restocking, make the following daily records—

- (a) the number or approximate number of poultry on the premises;
- (b) the number of poultry falling ill on the premises;
- (c) the number of poultry dying on the premises;
- (d) the amount of feed and, where possible, water being consumed by poultry on the premises;
- (e) any egg production on the premises.

(2) The occupier of commercial poultry premises must ensure that records made under paragraph (1) are kept for at least 6 weeks from the date the last record was made.

Measures at other restocked premises

70. The Secretary of State may carry out the measures set out in articles 68 and 69 at other restocked premises where poultry or other captive birds are kept.

Designation of premises to which things may be moved

71.—(1) The occupier of the following premises may apply in writing to the Secretary of State for them to be designated for the following purposes—

- (a) a slaughterhouse for the purpose of receiving poultry moved under a licence granted under this Order;
- (b) a hatchery for the purpose of receiving eggs moved under a licence granted under this Order;
- (c) an egg packing centre for the purpose of receiving eggs moved under a licence granted under this Order;
- (d) any premises for the purpose of receiving eggs moved under a licence granted under this Order for use for scientific, diagnostic or pharmaceutical purposes.

(2) The Secretary of State must not make any such designation unless she is satisfied that the premises are so constructed and operated that the risk of the transmission of avian influenza from them is minimal.

(3) The following premises are deemed to be designated under paragraph (1)(d), unless the Secretary of State directs otherwise by notice to the occupier of the premises—

- (a) premises licensed to manufacture or assemble human vaccines under section 8 of the Medicines Act 1968⁽⁶⁾;
- (b) premises authorised to manufacture animal vaccines under Regulation 5 of the Veterinary Medicines Regulations 2005⁽⁷⁾;
- (c) premises licensed under sections 4 or 5 of the Animals (Scientific Procedures) Act 1986⁽⁸⁾;
- (d) premises licensed under article 4 of the Specified Animal Pathogens Order 1998⁽⁹⁾.

Duty to provide reasonable assistance

72.—(1) Any person required to give reasonable assistance or information to a person executing this Order must, unless he has reasonable cause, do so without delay.

(2) The occupier of any premises from or to which he wishes any thing to be moved under licence under this Order must allow any person authorised by the Secretary of State to enter those premises for the purposes of deciding whether or not such a licence should be granted or maintained.

Provision of information

73. No person shall furnish information which he knows to be false or misleading to a person executing this Order.

(6) 1968 c. 67.
(7) S.I. 2005/2745.
(8) 1986 c. 14.
(9) S.I. 1998/463.

Records of movements authorised by general licence

74. Any person moving poultry, other captive birds or their products under a licence granted under this Order must, as soon after the movement as is reasonably practicable, make a record of the date of the movement and the registration of any vehicle used and must retain the record for at least six weeks after the date of the movement.

Retention and production of records

75.—(1) Any person who is required by this Order to make or keep a record must—

- (a) retain it for at least twelve months from the date the record is made (unless otherwise required under this Order); and
- (b) produce it on demand to an inspector and provide him with copies, if required.

(2) An inspector may enter any premises for the purpose of inspecting any records required to be kept under this Order and may copy any such records (in whatever form they are held), take them away and require any computer records to be produced in a form which can be taken away.

Duty to comply with declarations, licences and notices

76. Any person to whom any requirement in a declaration, licence, notice or designation under this Order applies must—

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

Costs of compliance

77. The costs incurred by any person in taking any action required by, or of refraining from taking action prohibited by, this Order (or of any declaration, licence, notice or designation under it) must be met by that person unless the Secretary of State directs otherwise in writing.

Killing of birds and destruction of things which may be contaminated

78.—(1) Before causing poultry or other birds to be killed under paragraph 5 of Schedule 3 to the Act, the Secretary of State must give notice of her intention to do so to the occupier of the premises where the birds are kept or to their keeper.

(2) Before causing any mammal to be killed under section 32 of the Act, the Secretary of State must give notice of her intention to do so to the occupier of the premises where the mammal is kept or to its keeper.

(3) Before causing the seizure of any thing under the Diseases of Animals (Seizure) Order 1993⁽¹⁰⁾ for the purposes of this Order, the Secretary of State must give notice of her intention to do so—

- (a) to the occupier of the premises where the thing is kept; or
- (b) to the owner or keeper of the thing.

(10) S.I. 1993/1685.

Duty of the local authority to erect signs

79.—(1) The local authority must, if reasonably practicable, ensure that the boundaries of controlled zones other than avian influenza (restrictions on mammals) zones are indicated by signs erected in a conspicuous position on roads entering the zones on which poultry are likely to be moved.

(2) The local authority must, if reasonably practicable, ensure that the boundaries of avian influenza (restrictions on mammals) zones are indicated by signs erected in a conspicuous position on roads entering the zones on which mammals, or mammals specified in the declaration of the zones, are likely to be moved.

PART 9

Inspection, enforcement, offences, amendments and revocations

Redirection of mammals, birds and eggs in transit

80. A veterinary inspector may, by notice to the owner of driver or any vehicle moving any mammal, bird or egg or any other thing to any premises (including regulated places) where avian influenza or influenza virus of avian origin is suspected or confirmed, require any mammal, bird, egg or any other things specified in the notice to be moved to other premises specified in the notice instead.

Veterinary investigations

81.—(1) A veterinary inspector (or an inspector acting in accordance with a veterinary inspector's instructions) may enter any premises on which a veterinary inquiry, clinical examination, survey or other investigation into the presence or spread of avian influenza is required under this Order.

(2) A person who enters premises under this Order or under sections 63, 64 or 64A of the Act for the purposes of an investigation into the presence or spread of avian influenza or of influenza virus of avian origin must carry out such examinations and tests and take such samples (including live birds, live mammals and carcasses) as he considers necessary and may—

- (a) mark, or cause to be marked, for identification purposes any bird, mammal, carcase or other thing; and
- (b) count birds and mammals.

(3) If the person carrying out an investigation suspects that avian influenza or influenza virus of avian origin exists or has existed on the premises, he must seek to establish—

- (a) the length of time avian influenza has existed on the premises or on any vehicle,
- (b) the possible origin of avian influenza on the premises,
- (c) which premises may have been exposed to contamination by avian influenza from the same origin or from the premises under investigation, and
- (d) the extent to which avian influenza may have been carried to or from the premises under investigation by the movement of birds, people, animals, vehicles, eggs, carcasses, implements or any other thing.

(4) A person who enters premises for the purposes of surveillance under article 7 may re-enter the premises to investigate any inconclusive findings of the survey.

(5) The occupier of the premises under investigation and any person appearing to the person carrying out the investigation to have charge of birds or mammals on the premises must provide such assistance as the person carrying out the inquiry may reasonably require.

(6) No person shall deface, obliterate or remove any mark applied under paragraph (2)(a) except with the written authority of a veterinary inspector.

(7) Any person who carries out an investigation under this Order must keep a record of the dates he visits premises, of his findings at the premises and of any action he has required the occupier of the premises to take.

(8) The Secretary of State must take account of the results of veterinary inquiries when deciding what requirements and restrictions to impose under this Order.

Inspection of vehicles

82. For the purposes of section 65A of the Act (inspection of vehicles), any controlled zone is a designated area until it is ended or becomes part of another zone.

General powers of inspectors

83.—(1) Any person who enters premises under this Order may take with him, for any purpose relating to its execution and enforcement, such people and things as he considers necessary.

(2) Any person who so assists may return to the premises unaccompanied to take any further steps necessary to ensure the execution or enforcement of this Order.

(3) Provisions in this Order prohibiting or restricting the movement or use of any thing do not apply to any person in the execution or enforcement of the Order.

Powers of inspectors in case of default

84.—(1) If any person fails to comply with a requirement of this Order or of a declaration, licence, notice or designation under it, an inspector may take such steps he considers necessary to ensure the requirement is met (including seizing and detaining any thing).

(2) In taking steps under this article, an inspector may direct any person to take or refrain from specified action in respect of any place, animal, bird, vehicle, or other thing.

(3) Any steps taken under this article are without prejudice to proceedings for an offence arising out of the default.

(4) The person in default must reimburse any reasonable expenses incurred by the Secretary of State or the local authority in taking such steps and any such reimbursement is recoverable summarily.

Offences by bodies corporate

85.—(1) If an offence against the Act committed by a body corporate is shown—

(a) to have been committed with the consent or connivance of an officer; or

(b) to be attributable to any neglect on his part,

the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.

(2) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body.

(3) “Officer”, in relation to a body corporate, means a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity.

Ignorance of restriction or requirement

86. No person shall be guilty of failing to comply with a restriction or requirement applying in a controlled zone if he satisfies the court that he did not know of the restriction or requirement and that he could not with reasonable diligence have obtained knowledge of it.

Enforcement

87.—(1) The local authority must, subject to paragraph (2), enforce this Order.

(2) The Secretary of State may, in relation to other particular cases or to other cases of a particular description, direct that she will enforce this Order.

Revocations and amendments

88.—(1) The Diseases of Poultry (England) Order 2003(**11**) is amended by inserting after article 1(2)—

“(3) This Order does not apply in relation to avian influenza.”

(2) In article 2 of the Diseases of Animals (Approved Disinfectants) Order 1978(**12**), the definition of “Diseases of Poultry Order” is substituted by—

““Diseases of Poultry Order” means the Diseases of Poultry Order 2003 and the Avian Influenza and Influenza of Avian Origin in Mammals (England) Order 2006;”.

Ben Bradshaw
Parliamentary Under Secretary of State
Department for Environment, Food and Rural
Affairs

27th April 2006

(11) S.I. 2003/1078.

(12) S.I. 1978/32, as amended by S.I. 1994/3141. Other amendments are not relevant to this Order.