
EXPLANATORY NOTE

(This note is not part of the Order)

1. This Order revokes and replaces the Avian Influenza and Influenza of Avian Origin in Mammals (England) Order 2006 (S.I. 2006/1197) (“the original Order”). It continues to transpose Council Directive [2005/94/EC](#) on Community measures for the control of avian influenza and repealing Directive [92/40/EC](#) (OJ No L10, 14.1.2006, p16), (“the Directive”), other than Chapter IX. Chapter IX of the Directive deals with vaccination and will be transposed by the Avian Influenza (Vaccination) (England) Regulations 2006 (S.I. 2006/2703). This Order also implements, in part—

- (a) Commission Decision [2005/734/EC](#) laying down biosecurity measures to reduce the risk of transmission of highly pathogenic avian influenza caused by influenza A virus of subtype H5N1 from birds living in the wild to poultry and other captive birds and providing for an early detection system in areas at particular risk (OJ No L 274, 20.10.2005, p. 105, as amended by Commission Decisions [2005/745/EC](#), [2005/855/EC](#) and [2006/574/EC](#)); and
- (b) Commission Decision [2006/474/EC](#) concerning measures to prevent the spread of highly pathogenic avian influenza caused by influenza A virus of subtype H5N1 to birds kept in zoos and approved bodies, institutes and centres in the Member States and repealing Decision [2005/744/EC](#) (OJ No L 187, 8.7.2006, p. 37).

2. This Order also rectifies errors in the original Order reported by the Joint Committee on Statutory Instruments in their 31st Report for 2005-2006, available at <http://www.parliament.the-stationery-office.co.uk/pa/jt/jtstatin.htm>.

3. Measures relating to the poultry register, the vaccination of zoo birds and restrictions on bird gatherings to achieve implementation of these Decisions are contained in the Avian Influenza (Preventive Measures) (England) Regulations 2006.

4. The effects of the main substantive changes to the original Order introduced by this Order are—

- (a) to require any person examining any mammal or carcase or analysing a sample taken from any mammal or carcase to inform the Divisional Veterinary Manager if he suspects influenza of avian origin or antibodies to the disease in the mammal or carcase;
- (b) to allow the Secretary of State to apply some rather than all the measures applicable to suspect and infected premises to contact premises (articles 27(2) and 54(1));
- (c) to permit derogations from certain measures applicable to laboratories where low pathogenic avian influenza virus is kept (article 11(1));
- (d) to make clear that the duty on the occupier of premises where poultry or other captive birds are kept to keep records of visitors to those premises does not extend to trespassers and those on rights of way (paragraph 5(c) of Schedules 4 and 5);
- (e) to allow inspectors appointed by local authorities as well as veterinary inspectors appointed by the Secretary of State to serve notices in certain circumstances.

5. Part 1 of the Order contains introductory provisions. Article 3 extends the definitions of “poultry”, “animals” and “disease” in the Animal Health Act 1981 (c. 22). It also applies the slaughter power in section 32 of that Act to any infection in mammals caused by influenza virus of avian origin.

6. Part 2 sets out preventive measures to reduce the risk of the transmission of avian influenza and provides for surveillance for the disease.

Changes to legislation: *There are currently no known outstanding effects for the The Avian Influenza and Influenza of Avian Origin in Mammals (England) (No.2) Order 2006. (See end of Document for details)*

7. Part 3 of the Order and Schedule 1 set out measures to deal with any suspected outbreak of avian influenza at premises other than slaughterhouses and border inspection posts. Measures when highly pathogenic avian influenza is confirmed on such premises are set out in Part 4 and Schedule 2. These measures may, under article 13, also be applied to premises where disease is suspected. Part 4 also provides for the declaration of protection zones, surveillance zones and restricted zones around infected premises. Measures in protection and surveillance zones are set out in Schedules 4 and 5.

8. Measures when highly pathogenic avian influenza is confirmed at slaughterhouses, border inspection posts and in vehicles are set out in Part 5.

9. Measures where low pathogenic avian influenza is confirmed at premises other than slaughterhouses and border inspection posts are set out in Part 6 and in Schedule 6. These include the declaration of low pathogenic avian influenza zones. Measures in such zones are set out in Schedule 7.

10. Measures to reduce the risk of the spread of avian influenza viruses to pigs and other mammals are set out in Part 7.

11. General measures applicable on suspicion or confirmation of avian influenza are set out in Part 8 and measures on inspection and enforcement are set out in Part 9. Article 86(2) provides for notices, licences and designations under the original Order to remain in force as if they were notices, licences or designations under this Order.

12. Failure to comply with this Order is an offence under section 73 of the Animal Health Act 1981.

13. A full regulatory impact assessment of the effect that this Order will have on the costs of business has been placed in the library of each House of Parliament, with a transposition note setting out how the main elements of Council Directive [2005/94/EC](#) are transposed. Copies may be obtained from the Department for Environment, Food and Rural Affairs, Exotic Disease Prevention and Control Division, 1A, Page Street, London SW1P 4PQ.

Changes to legislation:

There are currently no known outstanding effects for the The Avian Influenza and Influenza of Avian Origin in Mammals (England) (No.2) Order 2006.