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STATUTORY INSTRUMENTS

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**2006 No. 3249**

**The Avian Influenza (H5N1 in  
Wild Birds) (England) Order 2006**

**PART 1**

**Introduction**

**Title, commencement and application**

- 1.—(1) This Order may be cited as the Avian Influenza (H5N1 in Wild Birds) (England) Order 2006.
- (2) This Order comes into force on 30th December 2006.
- (3) This Order applies in relation to England only.

**Interpretation**

- 2.—(1) In this Order—

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

“the Avian Influenza Order” means the Avian Influenza and Influenza of Avian Origin in Mammals (England) (No.2) Order 2006(1);

“bird by-product” means entire bodies or parts of birds or products of avian origin not intended for human consumption included in [F1 Articles 8, 9 or 10 of Regulation (EC) No. 1069/2009];

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

“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 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;

“designated” means designated in accordance with article 13, except where the context otherwise requires, 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;

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

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

[<sup>F2</sup>“avian influenza of public health concern found in wild birds” means any influenza A virus—

- (a) of the subtype H5 or H7, or
- (b) with an intravenous pathogenicity index in six-week-old birds greater than 1.2, which is capable of having a significant impact on public health;]

“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;

“occupier” means, in relation to any premises, the person in charge of those premises;

“other captive bird” means a bird kept in captivity excluding poultry, pet birds, sentinel birds placed by the Secretary of State for the purpose of surveillance and research activities and birds kept in the following establishments—

- (a) zoos, within the meaning of the Avian Influenza (Preventive Measures) (England) Regulations 2006<sup>(2)</sup>;
- (b) circuses;
- (c) amusement parks; and
- (d) laboratories;

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

“pet bird” means a bird, other than poultry, reared or kept in captivity as a pet;

“poultry” means a bird reared or kept in captivity for the production of meat or eggs for consumption, or for the production 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;

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

“Regulation (EC) No. 853/2004” means Regulation (EC) No. 853 of the European Parliament and of the Council laying down specific hygiene rules for food of animal origin, as amended at the date this Order is made<sup>(3)</sup>;

“ [<sup>F3</sup>Regulation (EC) No. 1069/2009” means Regulation (EC) No. 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products

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(2) S.I 2006/2701.

(3) OJ No L 139, 30.4.04, p55. The revised text of the Regulation is contained in a corrigendum (OJ No L 226, 25.6.04, p22).

and derived products not intended for human consumption and repealing Regulation (EC) No. 1774/2002 (Animal by-products Regulation);]

[<sup>F4</sup>“Regulation (EU) No. 142/2011” means Commission Regulation (EU) No. 142/2011 implementing Regulation (EC) No. 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and implementing Council Directive 97/78/EC as regards certain samples and items exempt from veterinary checks at the border under that Directive;]

“slaughterhouse” means 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 article 5(2)<sup>F5</sup>...;

“wild bird monitoring area” means a wild bird monitoring area declared under article 5(2)<sup>F6</sup>...;

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

#### Textual Amendments

- F1** Words in art. 2 substituted (23.3.2011) by [The Animal By-Products \(Enforcement\) \(England\) Regulations 2011 \(S.I. 2011/881\)](#), reg. 1, **Sch. 2 para. 13(2)(a)** (which amending Regulations are revoked (12.12.2013) by S.I. 2013/2952, regs. 1(2), 28(d)); and words in art. 2 substituted (with effect in accordance with reg. 1(3) of the amending S.I.) by [The Animal By-Products \(Enforcement\) \(England\) Regulations 2013 \(S.I. 2013/2952\)](#), reg. 1(2), **Sch. 2 para. 5(2)(a)**
- F2** Words in art. 2 inserted (24.11.2021) by [The Avian Influenza \(H5N1 in Wild Birds\) \(England\) \(Amendment\) Order 2021 \(S.I. 2021/1305\)](#), arts. 1, **3(a)**
- F3** Words in art. 2 substituted (23.3.2011) by [The Animal By-Products \(Enforcement\) \(England\) Regulations 2011 \(S.I. 2011/881\)](#), reg. 1, **Sch. 2 para. 13(2)(b)** (which amending Regulations are revoked (12.12.2013) by S.I. 2013/2952, regs. 1(2), 28(d)); and words in art. 2 substituted (with effect in accordance with reg. 1(3) of the amending S.I.) by [The Animal By-Products \(Enforcement\) \(England\) Regulations 2013 \(S.I. 2013/2952\)](#), reg. 1(2), **Sch. 2 para. 5(2)(b)**
- F4** Words in art. 2 inserted (23.3.2011) by [The Animal By-Products \(Enforcement\) \(England\) Regulations 2011 \(S.I. 2011/881\)](#), reg. 1, **Sch. 2 para. 13(2)(c)** (which amending Regulations are revoked (12.12.2013) by S.I. 2013/2952, regs. 1(2), 28(d)); and words in art. 2 substituted (with effect in accordance with reg. 1(3) of the amending S.I.) by [The Animal By-Products \(Enforcement\) \(England\) Regulations 2013 \(S.I. 2013/2952\)](#), reg. 1(2), **Sch. 2 para. 5(2)(c)**
- F5** Words in art. 2 omitted (24.11.2021) by virtue of [The Avian Influenza \(H5N1 in Wild Birds\) \(England\) \(Amendment\) Order 2021 \(S.I. 2021/1305\)](#), arts. 1, **3(b)**
- F6** Words in art. 2 omitted (24.11.2021) by virtue of [The Avian Influenza \(H5N1 in Wild Birds\) \(England\) \(Amendment\) Order 2021 \(S.I. 2021/1305\)](#), arts. 1, **3(c)**

#### Declarations and notices

- 3.—(1) A declaration of a wild bird control area or a wild bird monitoring area under this Order—
  - (a) must be in writing;

- (b) may be amended or revoked by further declaration;
  - (c) must designate the extent of the area being declared;
  - (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) Notices issued under this Order—
- (a) may be amended or revoked, by further notice, at any time;
  - (b) must, if they apply to only part of premises, specify to which part they apply.
- (3) The Secretary of State must ensure that the extent of any wild bird control area or wild bird monitoring area declared under this Order, the nature of the restrictions and requirements applicable within it and the dates of its declaration and revocation are publicised.

### **Licences**

4.—(1) No person shall grant a licence under this Order for the movement of any poultry, other captive bird, hatching egg, controlled meat or bird by-product unless he has taken account of the relevant risk assessment.

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

(3) Licences granted under this Order—

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

(4) Licences granted in Scotland or Wales for activities that could be licensed in England under this Order have effect in England as if they were licences granted under this Order, but an inspector acting under the direction of the Secretary of State may serve a notice on any person moving any thing under the authority of such a licence, requiring him to move it to and keep it on premises specified in the notice or move it out of England.

(5) 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 a local authority inspector, veterinary inspector or another officer of the Secretary of State, 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.

(6) A person moving anything under the authority of a general licence granted under this Order must—

- (a) keep with him, at all times during the licensed 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 by a local authority inspector, a veterinary inspector or other officer of the Secretary of State, produce the consignment note and allow a copy or extract to be taken; and
- (c) on such demand, provide his name and address.

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

## PART 2

### Confirmation or suspicion of H5N1

#### Confirmation or suspicion of H5N1 in wild birds

5.—(1) This article applies if the Chief Veterinary Officer advises the Secretary of State that—

- (a) the avian influenza virus of the H5 subtype is present in a wild bird or the carcase of a wild bird in Great Britain; and
- (b) either—
  - (i) she suspects that the neuraminidase may be N1; <sup>F7</sup>...
  - (ii) the neuraminidase has been confirmed as N1 <sup>F8</sup>; or]
  - <sup>F9</sup>(iii) she suspects an avian influenza of public health concern found in wild birds may be present.]

<sup>F10</sup>(2) Where this article applies, the Secretary of State, after considering a risk assessment, may declare—

- (a) a wild bird control area or a wild bird monitoring area; or
- (b) a wild bird control area and a wild bird monitoring area.]

<sup>F11</sup>(2A) The risk assessment referred to in paragraph (2) must, amongst other considerations, take into account—

- (a) the geographical features of the proposed area;
- (b) any administrative boundaries;
- (c) any limnological, ecological and epizootic factors;
- (d) any monitoring facilities.”;]

<sup>F12</sup>(3) .....

<sup>F13</sup>(4) .....

<sup>F14</sup>(5) .....

(6) An area remains a wild bird control area until—

- (a) the Secretary of State amends the declaration made under paragraph (2)(a) <sup>F15</sup>... so that the area within its boundaries becomes part of the wild bird monitoring area; or
- (b) the Secretary of State revokes the declaration.

(7) An area remains a wild bird monitoring area until the Secretary of State revokes the declaration made under paragraph (2)(b) <sup>F16</sup>....

(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.

#### Textual Amendments

- F7** Word in art. 5(1)(b)(i) omitted (24.11.2021) by virtue of [The Avian Influenza \(H5N1 in Wild Birds\) \(England\) \(Amendment\) Order 2021 \(S.I. 2021/1305\)](#), arts. 1, **4(a)(i)**
- F8** Words in art. 5(1)(b)(ii) inserted (24.11.2021) by [The Avian Influenza \(H5N1 in Wild Birds\) \(England\) \(Amendment\) Order 2021 \(S.I. 2021/1305\)](#), arts. 1, **4(a)(ii)**
- F9** Art. 5(1)(b)(iii) inserted (24.11.2021) by [The Avian Influenza \(H5N1 in Wild Birds\) \(England\) \(Amendment\) Order 2021 \(S.I. 2021/1305\)](#), arts. 1, **4(a)(iii)**
- F10** Art. 5(2) substituted (24.11.2021 immediately after the coming into force of S.I. 2021/1305) by [The Avian Influenza \(H5N1 in Wild Birds\) \(England\) \(Amendment\) \(No. 2\) Order 2021 \(S.I. 2021/1307\)](#), arts. 1, **3**
- F11** Art. 5(2A) inserted (24.11.2021) by [The Avian Influenza \(H5N1 in Wild Birds\) \(England\) \(Amendment\) Order 2021 \(S.I. 2021/1305\)](#), arts. 1, **4(c)**
- F12** Art. 5(3) omitted (24.11.2021) by virtue of [The Avian Influenza \(H5N1 in Wild Birds\) \(England\) \(Amendment\) Order 2021 \(S.I. 2021/1305\)](#), arts. 1, **4(d)**
- F13** Art. 5(4) omitted (24.11.2021) by virtue of [The Avian Influenza \(H5N1 in Wild Birds\) \(England\) \(Amendment\) Order 2021 \(S.I. 2021/1305\)](#), arts. 1, **4(d)**
- F14** Art. 5(5) omitted (24.11.2021) by virtue of [The Avian Influenza \(H5N1 in Wild Birds\) \(England\) \(Amendment\) Order 2021 \(S.I. 2021/1305\)](#), arts. 1, **4(d)**
- F15** Words in art. 5(6) omitted (24.11.2021) by virtue of [The Avian Influenza \(H5N1 in Wild Birds\) \(England\) \(Amendment\) Order 2021 \(S.I. 2021/1305\)](#), arts. 1, **4(e)**
- F16** Words in art. 5(7) omitted (24.11.2021) by virtue of [The Avian Influenza \(H5N1 in Wild Birds\) \(England\) \(Amendment\) Order 2021 \(S.I. 2021/1305\)](#), arts. 1, **4(f)**

#### Extent of wild bird control and monitoring areas

- 6.—(1) A wild bird control area must—
- (a) be centred on the place where the wild bird or carcass referred to in article 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 Secretary of State 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 areas;
  - (b) any administrative boundaries;
  - (c) any limnological factors;
  - (d) any ecological factors;
  - (e) any epizootic factors;
  - (f) monitoring facilities; and
  - (g) any other factor he considers relevant.

(4) Paragraphs (5) and (6) apply if the Secretary of State 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—

- (i) has a width of one kilometre from that bank or shore; and
- (ii) 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 Secretary of State 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 Secretary of State considers necessary to prevent the spread of avian influenza.

(9) A wild bird control area or a wild bird monitoring area declared under [F17 article 5] must be of such size and shape as the Secretary of State considers necessary to prevent the spread of avian influenza.

[F18(10) Where an area declared under article 5(2) would otherwise include land in Scotland or Wales, the area declared must extend only to such part of that land as is in England.]

#### Textual Amendments

- F17** Words in art. 6(9) substituted (24.11.2021) by [The Avian Influenza \(H5N1 in Wild Birds\) \(England\) \(Amendment\) Order 2021 \(S.I. 2021/1305\)](#), arts. 1, **5(a)**
- F18** Art. 6(10) substituted (24.11.2021) by [The Avian Influenza \(H5N1 in Wild Birds\) \(England\) \(Amendment\) Order 2021 \(S.I. 2021/1305\)](#), arts. 1, **5(b)**

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

7. If the wild bird or carcase referred to in article 5(1) is found within a protection zone or surveillance zone declared under article 28 of the Avian Influenza Order, the Secretary of State 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 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 Secretary of State may—

- (a) amend the declaration of the wild bird control area so that some or all of the measures listed in paragraphs 1 to 16 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 [F19 avian influenza] 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 Secretary of State 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 Secretary of State must take account of the factors listed in article 6(3).
- (7) Paragraph (4)(b) does not apply in relation to the measures in paragraphs 4 and 6 of Schedule 2 where the Secretary of State 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 article 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 article 28 of the Avian Influenza Order;
  - (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 article referred to in paragraph (9) would not endanger disease control.
- (9) The Secretary of State may amend the declaration of the wild bird control area so that—
- (a) any of the measures listed in Schedule 1; or
  - (b) article 11,
- do not apply in respect of that wild bird control area.

#### Textual Amendments

**F19** Words in art. 8(5)(b) substituted (24.11.2021) by [The Avian Influenza \(H5N1 in Wild Birds\) \(England\) \(Amendment\) Order 2021 \(S.I. 2021/1305\)](#), arts. 1, 6

#### Additional measures

**9.—(1)** In his declaration of a wild bird control area or a wild bird monitoring area, the Secretary of State must impose such additional measures as he considers necessary to reduce the risk of the spread of avian influenza.

(2) When deciding what measures to impose under paragraph (1), the Secretary of State must consider whether measures are 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 the avian influenza virus or with any virus that causes avian influenza; and



- (c) to 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 a veterinary inspector or an inspector acting under the direction of a veterinary inspector may require.

### **Restrictions relating to things moved from Scotland, Wales or Northern Ireland**

**10.**—(1) Measures in this Order that apply 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 Scotland, Wales or Northern Ireland.

(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 article 8(9), the Secretary of State 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) a veterinary inspector visits all premises where poultry are kept within the wild bird control area as often as the Secretary of State considers necessary to monitor the possible spread of avian influenza.
- (2) Every veterinary 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 Secretary of State, 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) [<sup>F20</sup>Where article 5(1) applies] the Secretary of State must not—
- (a) amend any declaration made under article 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 [<sup>F21</sup>avian influenza] virus was collected from that wild bird or carcass except where the conditions in paragraph (2) are fulfilled; or
  - (b) revoke any declaration made under article 5 until at least 30 days have elapsed from that date.
- (2) The conditions referred to in paragraph (1)(a) are—
- (a) the Secretary of State has carried out an assessment of the risk of the possible spread of avian influenza, taking into account the factors listed in article 6(3), which indicates that the amendment of the declaration would not endanger disease control;

- (b) the Secretary of State has identified premises where poultry are kept within the wild bird control area in accordance with article 11(1)(a); and
- (c) a veterinary inspector has carried out at least one visit to each of those premises in accordance with article 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 article 11(2)(a) have not given rise to the service of a notice under article 10(1) of the Avian Influenza Order.

(3) Where the Secretary of State 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 article 6(5) or (6).

[<sup>F22</sup>(4) Where, on the basis of a risk assessment, the Chief Veterinary Officer is satisfied that the strain of avian influenza present in a wild bird or carcase is not an avian influenza of public health concern found in wild birds, paragraph (1) does not apply.]

#### Textual Amendments

- F20** Words in art. 12(1) substituted (24.11.2021) by [The Avian Influenza \(H5N1 in Wild Birds\) \(England\) \(Amendment\) Order 2021 \(S.I. 2021/1305\)](#), arts. 1, **7(a)(i)**
- F21** Words in art. 12(1)(a) substituted (24.11.2021) by [The Avian Influenza \(H5N1 in Wild Birds\) \(England\) \(Amendment\) Order 2021 \(S.I. 2021/1305\)](#), arts. 1, **7(a)(ii)**
- F22** Art. 12(4) substituted (24.11.2021) by [The Avian Influenza \(H5N1 in Wild Birds\) \(England\) \(Amendment\) Order 2021 \(S.I. 2021/1305\)](#), arts. 1, **7(b)**

## PART 3

### Miscellaneous

#### Designation of premises to which things may be moved

**13.**—(1) Unless the Secretary of State directs otherwise by notice to 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 this Order—

- (a) premises that are designated under article 71 of the Avian Influenza Order;
- (b) premises that are deemed to be designated under article 4(7) of that Order; and
- [<sup>F23</sup>(c) the following plants if approved under Article 24 of Regulation (EC) No. 1069/2009—
  - (i) incineration plants;
  - (ii) co-incineration plants;
  - (iii) processing plants;
  - (iv) biogas plants;
  - (v) composting plants;
  - (vi) petfood plants.]

(2) Plants referred to in paragraph (1)(c) in Scotland, Wales or Northern Ireland which are 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 are deemed to be designated under this Order are deemed to be designated for the purposes of this Order.

### Textual Amendments

**F23** Art. 13(1)(c) substituted (23.3.2011) by [The Animal By-Products \(Enforcement\) \(England\) Regulations 2011 \(S.I. 2011/881\)](#), reg. 1, **Sch. 2 para. 13(3)** (which amending Regulations are revoked (12.12.2013) by S.I. 2013/2952, regs. 1(2), 28(d)); and art. 13(1)(c) substituted (with effect in accordance with reg. 1(3) of the amending S.I.) by [The Animal By-Products \(Enforcement\) \(England\) Regulations 2013 \(S.I. 2013/2952\)](#), reg. 1(2), **Sch. 2 para. 5(3)**

### General duties relating to execution of this Order

**14.**—(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 an inspector or any person authorised by the Secretary of State to enter those premises for the purposes of deciding whether such a licence should be granted or maintained.

(3) No person may provide information which he knows to be false or misleading to a person executing this Order.

(4) No person may deface, obliterate or remove any mark applied by an inspector under this Order except with the written authority of a veterinary inspector.

### Record keeping

**15.**—(1) A person moving poultry, other captive birds or their products under a licence granted under this Order must—

(a) as soon after the movement as is reasonably practicable, 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;
- (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 this Order 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 a person executing this Order must do so without delay.

(4) On production of the record, the person executing this Order 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 this Order.

### Duty to comply with declarations, licences and notices

**16.**—(1) Any person to whom any requirement in a declaration, licence, notice or designation under this Order 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.

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

### **Change of occupation of premises under restriction**

17.—(1) This article 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 this Order 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 in accordance with this article.

### **Cleansing and disinfection**

18.—(1) Any person who is required under this Order to carry out disinfection at any premises or of any thing must—

- (a) use disinfectants approved by the Secretary of State under [<sup>F24</sup>the Diseases of Animals (Approved Disinfectants) (England) Order 2007] (“the Disinfectants Order”) for use under the Avian Influenza Order;
- (b) use them at the concentrations approved under the Disinfectants 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.

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

#### **Textual Amendments**

**F24** Words in art. 18(1)(a) substituted (1.6.2018) by [The Environment, Food and Rural Affairs \(Miscellaneous Amendments\) \(England\) Regulations 2018 \(S.I. 2018/575\)](#), regs. 1(2), **37**

### **Designated areas and periods for the inspection of vehicles**

**19.** The following are designated for the purposes of section 65A (inspection of vehicles) of the Animal Health Act 1981(4)—

- (a) any wild bird control area for the duration of its existence; and
- (b) any wild bird monitoring area for the duration of its existence.

### **Disapplication of measures to those executing or enforcing this Order**

**20.** Provisions in this Order which prohibit or restrict the movement or use of any thing do not apply to the following in their execution of the Order—

- (a) the Secretary of State;
- (b) the local authority;
- (c) any other person authorised by the Secretary of State or the local authority to execute this Order.

### **Veterinary investigations and marking**

**21.—(1)** An inspector performing functions under this Order who enters any premises or inspects any vehicle may—

- (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.

### **General powers of inspectors**

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

(2) A veterinary inspector or an inspector acting under his direction may, when performing his functions under this Order—

- (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.

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(4) 1981 c. 22, as amended by the Animal Health Act 2002 c. 42, S.I. 1992/3293 and S.I. 2003/1734.

### **Powers of inspectors in case of default**

**23.**—(1) If any person fails to comply with a requirement under this Order 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) An inspector’s powers 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.

### **Offences by bodies corporate**

**24.**—(1) If an offence under this Order 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 negligence 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.

### **Enforcement**

**25.**—(1) These Regulations must be enforced by the local authority.

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

[<sup>F25</sup>(3) Where the Secretary of State makes a direction under paragraph (2), the Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of an offence under section 73 of the Animal Health Act 1981 relating to this Order.]

#### **Textual Amendments**

**F25** Art. 25(3) added (24.12.2012) by [The Agriculture, Animals, Environment and Food etc. \(Miscellaneous Amendments\) Order 2012 \(S.I. 2012/2897\)](#), arts. 1(1), **15**

*Ben Bradshaw*  
Minister of State  
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Affairs

**Changes to legislation:**

There are currently no known outstanding effects for the The Avian Influenza (H5N1 in Wild Birds) (England) Order 2006.