
EXPLANATORY NOTE

(This note is not part of the Order)

This Order applies in England only and implements—

- (a) Commission Decision [2006/563/EC](#) concerning certain protection measures in relation to highly pathogenic avian influenza in wild birds in the Community and repealing Decision [2006/115/EC](#) (OJNo. L 222, 15.8.2006, p.11), as amended by the Commission Decision amending Decisions [2006/415/EC](#), [2006/EC](#) and [2006/563/EC](#) as regards the health mark to be applied to fresh poultry meat adopted on 1st December 2006 (SANCO/10587/2006 Rev. 4); and
- (b) the Commission Decision establishing an alternative health mark pursuant to Directive [2002/99/EC](#), also adopted on 1st December 2006 (SANCO/10580/2006 Rev. 4).

The Commission Decisions adopted on 1st December 2006 have not yet been published in the Official Journal of the European Union but are available at the addresses set out below.

This Order provides that if the Chief Veterinary Officer advises the Secretary of State that avian influenza of subtype H5 is present in a wild bird or a wild bird carcase and that she suspects or confirms that the neuraminidase type is N1, the Secretary of State must, subject to a derogation, declare a wild bird control area and a wild bird monitoring area (articles 5, 6 and 7). Article 8 introduces Schedules 1 – 3 and sets out the circumstances in which the Secretary of State can amend a declaration so that certain measures do not apply in respect of those areas.

Article 9 provides that the Secretary of State may, in his declaration of a wild bird control area or a wild bird monitoring area, impose additional measures to those set out in the Schedules.

The Secretary of State must ensure that veterinary inspectors inspect commercial premises in a wild bird control area or a wild bird monitoring area to monitor the spread of avian influenza (article 11).

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

Articles 14 to 16 relate to the provision of information and reasonable assistance, record keeping and to compliance with requirements laid down under the Order. Article 17 provides for the feeding and tending of animals or poultry which cannot be moved on termination of a right of occupation because of a restriction imposed by the Order. Article 18 relates to cleansing and disinfection.

Articles 19 to 25 make provision related to offences and enforcement. Article 22 confers general powers on inspectors to take action to prevent spread of the disease.

Schedule 1 sets out the measures that are to apply in respect of a wild bird control area including measures relating to the movement of birds (Part 1), the movement of hatching eggs (Part 2), the movement of meat (Part 3), the movement of poultry by-products (part 4) and the use or movement of manure, the hunting or release of birds and bird gatherings (Part 5) and other provisions relating to the measures to be taken at premises receiving birds or their products from the area. Schedule 2 sets out the measures that are to apply in respect of a wild bird monitoring area including measures relating to the movement of birds and prohibitions on bird gatherings and the hunting or release of birds. Schedule 3 set out the biosecurity measures that are to apply in respect of premises where poultry or other captive birds are kept in a wild bird control area or a wild bird monitoring area.

This Order is enforced by the local authority (article 25).

Changes to legislation: There are currently no known outstanding effects for the The Avian Influenza (H5N1 in Wild Birds) (England) Order 2006. (See end of Document for details)

Failure to comply with this Order is an offence under section 73 of the Animal Health Act 1981 (c.22), punishable in accordance with section 75 of that Act.

Copies of the Commission Decisions adopted on 1st December 2006 and referred to above are available from the Department for Environment, Food and Rural Affairs, Exotic Disease Prevention and Control Division, 1A Page Street, London SW1P 4PQ and at <http://www.defra.gov.uk/animalh/diseases/notifiable/ai/policy/legislation/htm>

A regulatory impact assessment of the effect that this Order will have on the costs of business has not been prepared because of the obligation to implement European Commission Decisions on animal disease control as quickly as possible.

Changes to legislation:

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