
WELSH STATUTORY INSTRUMENTS

2006 No. 3310

The Avian Influenza (H5N1 in Wild Birds) (Wales) Order 2006

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 National Assembly that—
- (a) the avian influenza virus of the H5 subtype is present in a wild bird or the carcass of a wild bird in Great Britain; and
 - (b) either—
 - (i) he or she suspects that the neuraminidase may be N1; or
 - (ii) the neuraminidase has been confirmed as N1.
- (2) If the wild bird or carcass was found in Wales, the National Assembly must declare—
- (a) an area to be a wild bird control area; and
 - (b) an area to be a wild bird monitoring area.
- (3) If the wild bird or carcass was found in Scotland or England—
- (a) subject to sub-paragraphs (b) and (c), the National Assembly may declare an area to be a wild bird control area or a wild bird monitoring area;
 - (b) the National Assembly must declare an area to be a wild bird control area if the wild bird or carcass was found within three kilometres of the border with Wales;
 - (c) the National Assembly must declare an area to be a wild bird monitoring area if the wild bird or carcass was found within ten kilometres of the border with Wales.
- (4) Paragraphs (2), (3)(b) and (3)(c) do not apply if the National Assembly is satisfied, pursuant to a risk assessment, that—
- (a) H5N1 is not present in poultry, other captive birds or wild birds in the area which would otherwise be declared as the wild bird monitoring area; and
 - (b) that the infected wild bird or carcass did not present a risk of spreading that virus to such birds in that area.
- (5) The risk assessment under paragraph (4) must take into account any geographical and ecological considerations.
- (6) An area remains a wild bird control area until—
- (a) the National Assembly amends the declaration made under paragraph (2)(a), (3)(a) or (3)(b) so that the area within its boundaries becomes part of the wild bird monitoring area; or
 - (b) the National Assembly revokes the declaration.
- (7) An area remains a wild bird monitoring area until the National Assembly revokes the declaration made under paragraph (2)(b), (3)(a) or (3)(c).

(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.

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 National Assembly 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 it considers relevant.

(4) Paragraphs (5) and (6) apply if the National Assembly 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 National Assembly 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 National Assembly considers necessary to prevent the spread of avian influenza.

(9) A wild bird control area or a wild bird monitoring area declared under article 5(3) must be of such size and shape as the National Assembly considers necessary to prevent the spread of avian influenza.

(10) If an area declared in accordance with this article would otherwise include land in England, the National Assembly must declare an area of such part of that land as is in Wales.

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 National Assembly 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 and surveillance zones.

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, subject to paragraphs (4)(a) and (9).

(2) The measures in Schedule 2 apply in respect of a wild bird monitoring area including movements from that area, subject to paragraph (4)(b).

(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 National Assembly 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 H5N1 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 National Assembly 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 National Assembly 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 National Assembly 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 carcase 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 National Assembly 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.

Additional measures

9.—(1) In its declaration of a wild bird control area or a wild bird monitoring area, the National Assembly must impose such additional measures as it considers necessary to reduce the risk of the spread of avian influenza.

(2) When deciding what measures to impose under paragraph (1), the National Assembly 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 and 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 and 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, England or Northern Ireland

10.—(1) Subject to paragraph (2), 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, England 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 National Assembly must ensure that—

- (a) premises where poultry are kept within the wild bird control area and 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 National Assembly 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 or she is directed by the National Assembly, 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) If the Chief Veterinary Officer advises the National Assembly that the avian influenza virus of sub-type H5 present in the wild bird or carcass referred to in article 5(1)(a) is of neuraminidase N1, the National Assembly 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 H5 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 National Assembly 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 National Assembly has identified premises where poultry are kept within the wild bird control area in accordance with article 11(1)(a);
- (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 National Assembly 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(6).

(4) If the Chief Veterinary Officer advises the National Assembly that in his or her opinion the avian influenza virus of sub-type H5 present in the wild bird or carcass referred to in article 5(1)(a) is not of neuraminidase N1, the National Assembly must revoke any declaration made under article 5 without delay.

Changes to legislation:

There are currently no known outstanding effects for the The Avian Influenza (H5N1 in Wild Birds) (Wales) Order 2006, PART 2 .