SCOTTISH STATUTORY INSTRUMENTS

2004 No. 453

ANIMALS

ANIMAL HEALTH

The Avian Influenza (Survey Powers) (Scotland) Regulations 2004

Made - - - -	*20th October 2004*
Laid before the Scottish Parliament - - - -	*21st October 2004*
Coming into force - -	*25th October 2004*

The Scottish Ministers, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(**1**), and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Avian Influenza (Survey Powers) (Scotland) Regulations 2004 and shall come into force on 25th October 2004, and shall cease to have effect on 16th March 2005.

(2) These Regulations extend to Scotland only.

Interpretation

2. In these Regulations–

"bird" means any member of the following species, provided it is kept in captivity for breeding, the production of meat or eggs or for re-stocking supplies of game; namely, domestic fowls, turkeys, geese, ducks, guinea fowls, pigeons (other than racing pigeons), quails, ratites, pheasants and partridges;

"carcase" means the carcase of any bird and includes part of a carcase;

"Commission Decision 2004/630/EC" means Commission Decision 2004/630/EC(**2**) dated 27th July 2004 approving the programmes for the implementation of Member States' surveys

(**1**) 1972 c. 68. Section 2(2) was amended by the Scotland Act 1998 (c. 46), Schedule 8, paragraph 15(3). The function conferred upon the Minister of the Crown under section 2(2) of the European Communities Act 1972, insofar as within devolved competence, was transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.

(**2**) O.J. No. L 287, 8.9.04, p.7.

for avian influenza in poultry and wild birds during 2004 and laying down reporting and eligibility rules for the financial contribution from the Community to the implementation costs of those programmes;

"the disease" means avian influenza, and shall be deemed to include a current or previous infection by a causative agent of the disease;

"inspector" means an inspector appointed by the Scottish Ministers or a local authority for the purposes of these Regulations;

"local authority" means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(**3**);

"person", except in regulations 4(1)(g) and 6(3) of these Regulations, includes a body corporate or a partnership;

"pigeon house" means any installation used for keeping or breeding pigeons;

"premises" includes land with or without buildings but does not include any place used only as a dwelling; and

"racing pigeon" means any pigeon transported or intended for transport from its pigeon house to be released so that it may freely fly back to its pigeon house or to any other destination.

Surveys

3. An inspector may, on giving notice in writing to the occupier or person in charge of any premises upon which any bird or carcase is or has been located, carry out a survey of those premises for the purposes of Commission Decision 2004/630/EC in order to ascertain whether the disease exists or has existed on those premises.

Powers of inspectors in relation to surveys

4.—(1) An inspector carrying out a survey of premises in terms of regulation 3 may, on producing, if requested, some duly authenticated document showing that inspector's authority–

(a) enter those premises;

(b) make inquiries of any person (whether on those premises or not);

(c) examine, retain or copy any records including computerised records;

(d) examine any bird or carcase;

(e) take and retain such samples (including samples from birds and carcases), and carry out such examinations and laboratory or other tests, as that inspector considers necessary to ascertain whether the disease exists or has existed on those premises and, in particular, to establish–

(i) the length of time that the disease has existed on those premises;

(ii) the possible origin of the disease on those premises;

(iii) whether other premises may have been exposed to contamination by the disease from those premises; and

(iv) the extent to which the disease has been carried to or from those premises from or to other premises;

(f) mark, or cause to be marked, for identification purposes any bird, carcase or other thing in relation to which any of the powers under sub paragraphs (c) to (e) above have been exercised; and

(**3**) 1994 c. 39.