Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Avian Influenza (H5N1 in Wild Birds) (Wales) Order 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

WELSH STATUTORY INSTRUMENTS

2006 No. 3310 (W.300)

ANIMALS, WALES

ANIMAL HEALTH

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

Made - - - -	*12 December 2006*
Coming into force - -	*13 December 2006*

The National Assembly for Wales, in exercise of the powers conferred on it by sections 1, 7(1), 7(2), 8(1), 11, 15(5), 17(1), 23, 25, 28, 35(1), 35(3), 38(1) and 65(A)(3) of the Animal Health Act 1981 [F1], makes the following Order:

F1 1981 c. 22, as amended by the Animal Health Act 2002 c. 42, **S.I**. 1992/3293 and S.I. 2003/1734. Functions transferred to the National Assembly by the National Assembly (Transfer of Functions) Orders 1999 and 2004 (S.I. 1999/672 and S.I. 2004/3044 respectively).

PART 1

Introduction

Title, commencement and application

1.—(1) The title of this Order is the Avian Influenza (H5N1 in Wild Birds) (Wales) Order 2006.

(2) This Order comes into force on 13 December 2006.

(3) This Order applies in relation to Wales only.

Interpretation

2. 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 (Wales) (No.2) Order 2006 [F2];

[F3“bird by-product” means entire bodies or parts of birds or products of avian origin, not intended for human consumption, included in Articles 8, 9 or 10 of Regulation (EC) No. 1069/2009**]**;

“the Chief Veterinary Officer” means the Chief Veterinary Officer appointed by the National Assembly;

“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;

“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 or she 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;

“National Assembly” means the National Assembly for Wales of Cathays Park, Cardiff CF10 3NQ;

“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 National Assembly 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) (Wales) Regulations 2006 [F4];

(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 [F5]

[[F6]"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 and derived products not intended for human consumption and repealing Regulation (EC) No. 1774/2002 (Animal by-products Regulation);**]**

[[F7]"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" means any vehicle and 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) or 5(3);

"wild bird monitoring area" means a wild bird monitoring area declared under article 5(2) or 5(3);

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

F2 S.I. 2006/2927 (W.267).
F3 Words in art. 2 substituted (28.3.2014) by The Animal By-Products (Enforcement) (Wales) Regulations 2014 (S.I. 2014/517), reg. 1(2)(3), **Sch. 2 para. 4(2)(a)**
F4 S.I 2006/2803 (W.242).
F5 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).
F6 Words in art. 2 substituted (28.3.2014) by virtue of The Animal By-Products (Enforcement) (Wales) Regulations 2014 (S.I. 2014/517), reg. 1(2)(3), **Sch. 2 para. 4(2)(b)**
F7 Words in art. 2 substituted (28.3.2014) by virtue of The Animal By-Products (Enforcement) (Wales) Regulations 2014 (S.I. 2014/517), reg. 1(2)(3), **Sch. 2 para. 4(2)(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 by further declaration;

(c) must designate the extent of the area being declared; and

(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 National Assembly 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 is to 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 or she has taken account of the relevant risk assessment.

(2) In paragraph (1),the "relevant risk assessment" means the National Assembly'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 England for activities that could be licensed in Wales under this Order have effect in Wales as if they were licences granted under this Order, but an inspector acting under the direction of the National Assembly may serve a notice on any person moving any thing under the authority of such a licence, requiring him or her to move it to and keep it on premises specified in the notice or move it out of Wales.

(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 or her at all times during the licensed movement;

(b) on demand by a local authority inspector, veterinary inspector or another officer of the National Assembly, produce the licence or copy and allow a copy or extract of it to be taken; and

(c) on such demand, provide his or her name and address.

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

(a) keep with him or her, 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 National Assembly, produce the consignment note and allow a copy or extract to be taken; and

(c) on such demand, provide his or her name and address.

(7) Unless the National Assembly 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 National Assembly 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) 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 carcase 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 carcase 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 carcase 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 carcase 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 carcase 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.