WELSH STATUTORY INSTRUMENTS

2006 No. 3309 (W.299)

ANIMALS, WALES

ANIMAL HEALTH

The Avian Influenza (H5N1 in Poultry) (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), 65(A)(3) and 83(2) of the Animal Health Act 1981(**1**), makes the following Order:

Title, application and commencement

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

(2) This Order applies in relation to Wales and comes into force on 13 December 2006.

Interpretation

2. In this Order—

"the Act" means the Animal Health Act 1981;

"approved body" means a body approved in accordance with article 2(1)(c) of Directive 92/65/EEC laying down animal health requirements governing trade in and imports into the Community of animals, semen, ova and embryos not subject to animal health requirements laid down in specific Community rules referred to in Annex A(I) to Directive 90/425/EEC(**2**);

"avian influenza" means an infection of poultry or other captive birds caused by any influenza A virus of the subtypes H5 or H7 or with an intravenous pathogenicity index in six week old chickens greater than 1.2;

"the Avian Influenza Order" means the Avian Influenza and Influenza of Avian Origin in Mammals (Wales) (No 2) Order 2006(**3**);

(**1**) 1981 c. 22, as amended by the Animal Health Act 2002, c. 42, S.I. 2003/1734 and S.I. 2003/2035. 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).

(**2**) OJ No L 268, 14.9.1992, p. 54, as last amended by Directive 2004/68/EC (OJ No L 139, 30.4.2004, p. 321) and corrected by OJ No L 226, 25.6.2004, p. 128.

(**3**) S.I. 2006/2927 (W. 267).

"bird by-product" means entire bodies or parts of birds or products of avian origin, not intended for human consumption, included in articles 4, 5 or 6 of Regulation (EC) No. 1774/2002;

"the Chief Veterinary Officer" means the Chief Veterinary Officer appointed by the National Assembly;

"the Commission Decision" means Commission Decision 2006/415/EC concerning certain protection measures in relation to highly pathogenic avian influenza of the subtype H5N1 in poultry in the Community and repealing Decision 2006/135/EC(**4**), as amended by the Commission Decision amending Decisions 2006/415/EC, 2006/416/EC and 2006/563 as regards the health mark to be applied to fresh poultry meat adopted on 1 December 2006(**5**);

"competent authority" means the authority in a member State or third country authorised by it to carry out its functions under the Commission Decision;

"designated" means designated in accordance with article 3(5) to (7), except where the context otherwise requires and "undesignated" is construed accordingly;

"disinfect" means disinfect in accordance with article 17;

"fresh meat" means meat which has not undergone any preserving process other than chilling, freezing or quick-freezing, including meat which is vacuum wrapped or wrapped in a controlled atmosphere;

"H5N1 controlled zone" means any of the following—

(a) a temporary control zone;

(b) a temporary movement restriction zone;

(c) a protection zone;

(d) a surveillance zone; or

(e) a restricted zone;

"keeper" means any person responsible for birds, 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 product" means a processed product resulting from the processing of meat or from the further processing of such processed product, so that the cut surface shows that the product no longer has the characteristics of fresh meat;

"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 which is not poultry and includes a bird kept—

(a) as a pet;

(b) for shows, races, exhibitions or competitions;

(c) for breeding;

(d) for sale; or

(e) for use by an approved body;

"poultry" means birds reared or kept in captivity for the production of meat or eggs for consumption, 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;

(**4**) OJ No L 164, 16.6.2006, p. 51.
(**5**) SANCO/10587/2006 Rev.4. The adopted Decision has not yet been published in the Official Journal of the European Union but copies are available from the National Assembly

"premises" includes any land, building or other place;

"protection zone" means a protection zone declared under article 28 of the Avian Influenza Order following confirmation by the Chief Veterinary Officer of highly pathogenic avian influenza of subtype H5N1 in poultry;

"Regulation (EC) No. 1774/2002" means Regulation (EC) No. 1774/2002 of the European Parliament and of the Council laying down health rules concerning animal by-products not intended for human consumption(**6**), as last amended by Commission Regulation (EC) No 208/2006(**7**);

"restricted zone" means a restricted zone declared under the Avian Influenza Order in accordance with article 8(2) of this Order;

"surveillance zone" means a surveillance zone declared under article 28 of the Avian Influenza Order following confirmation by the Chief Veterinary Officer of highly pathogenic avian influenza of subtype H5N1 in poultry;

"temporary control zone" means a temporary control zone declared under the Avian Influenza Order in accordance with article 6(2) of this Order;

"temporary movement restriction zone" means a temporary movement restriction zone declared under the Avian Influenza Order in accordance with article 6(2) of this Order;

"unrestricted area" means any part of the United Kingdom which is not part of an H5N1 controlled zone declared under this Order or of an equivalent zone in Scotland, England or Northern Ireland;

"vehicle" includes—

(a) a trailer, semi-trailer or other thing 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; and

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

Licences, notices and designations under this Order

3.—(1) Licences 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 avian influenza; and

(d) may be amended, suspended or revoked, in writing, at any time.

(2) A veterinary inspector or an inspector acting under the direction of a veterinary inspector must not license a movement under articles 9, 10, 11 or 14 unless he or she has taken account of the relevant risk assessment.

(3) In paragraph (2), "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.

(4) Notices under this Order—

(a) may be amended or revoked, by further notice, at any time;

(b) must, if they apply only to part of premises, specify to which part they apply.

(**6**) OJ No L273, 10.10.2002, p1, as last amended by Commission Regulation (EC) No 208/2006 (OJ No L036, 8.2.2006, p 25).
(**7**) OJ No L036, 8.2.2006, p25.

(5) Designations under this Order—

(a) must be in writing;

(b) may be made subject to such conditions as the National Assembly considers necessary to control avian influenza; and

(c) may be amended, suspended or revoked in writing at any time.

(6) Unless the National Assembly directs otherwise by notice to the occupier of the premises, the following premises are deemed to be designated for the purposes of this Order—

(a) premises designated under article 71 of the Avian Influenza Order;

(b) premises deemed to be so designated under article 4(7) of that Order;

(c) the following plants, if approved under regulation 14 of the Animal By-Products (Wales) Regulations 2006(**8**)—

(i) incineration plants;

(ii) processing plants;

(iii) oleochemical plants;

(iv) biogas plants;

(v) composting plants;

(vi) petfood plants; and

(vii) technical plants.

(7) Premises in Scotland, England and Northern Ireland designated respectively by the Scottish Ministers, the Secretary of State of the Department for Environment, Food and Rural Affairs or by the Department for Agriculture and Rural Development of Northern Ireland for the same purposes as they may be designated under this Order are deemed to be designated by the National Assembly for the purposes of this Order.

(8) Licences granted in Scotland or England for activities which 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 or to keep it on premises specified in the notice or to move it out of Wales.

(9) 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 veterinary inspector, other officer of the National Assembly or by a local authority inspector, produce the licence or copy and allow a copy or extract to be taken; and

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

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

(a) carry with him or her , at all times during the licensed movement, a consignment note which 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;

(**8**) S.I. 2006/1293 (W.127).

(v) the name of the consignee;

(vi) the address of the premises of destination;

(b) on demand by a veterinary inspector, other officer of the National Assembly or by a local authority inspector, 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.

Restrictions relating to things moved from Scotland, England or Northern Ireland

4.—(1) Measures in this Order applying in respect of any thing moved from an H5N1 controlled zone apply in respect of any such thing moved from an equivalent zone 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 zone.

Areas A and B

5.—(1) The following are an area A for the purposes of the Commission Decision—

(a) a first zone declared in accordance with article 6(2);

(b) a protection zone; and

(c) a surveillance zone.

(2) The following are an area B for the purposes of the Commission Decision—

(a) a second zone declared in accordance with article 6(2); and

(b) a restricted zone

Establishment of zones on suspicion of avian influenza of subtype H5N1 in poultry

6.—(1) This article applies if the Chief Veterinary Officer advises the Nawtional Assembly that he or she suspects that—

(a) highly pathogenic avian influenza virus of the H5 subtype is present in poultry or in a poultry carcase in Great Britain; and that

(b) the neuraminidase virus type is N1.

(2) The National Assembly must declare two zones under article 13 of the Avian Influenza Order, as set out in paragraph (3), if the poultry or carcase in which highly pathogenic avian influenza of subtype H5N1 is suspected was found—

(a) in Wales; or

(b) in England, less than ten kilometres from the border with Wales.

(3) The zones referred to in paragraph (2) are—

(a) a temporary movement restriction zone and a temporary control zone;

(b) two temporary movement restriction zones; or

(c) two temporary control zones.

(4) In a declaration made in accordance with paragraph (2), the National Assembly must specify which of the two zones declared is the first zone and which the second zone.

(5) Premises which are partly in a first zone declared in accordance with paragraph (2) and partly in a second zone so declared are deemed to be wholly in the first zone.