WELSH STATUTORY INSTRUMENTS

2006 No 1761 (W.183)

ANIMALS, WALES

ANIMAL HEALTH, WALES

The Avian Influenza (Vaccination) (Wales) Regulations 2006

Made - - - -	*5 July 2006*
Coming into force - -	*6 July 2006*

The National Assembly for Wales, is designated for the purposes of section 2(2) of the European Communities Act 1972(**1**) in relation to the common agricultural policy of the European Community(**2**).

Exercising the powers conferred upon it by that section, the National Assembly for Wales makes the following Regulations:

Title, application and commencement

1.—(1) The title of these Regulations is The Avian Influenza (Vaccination) (Wales) Regulations 2006.

(2) These Regulations apply in relation to Wales and come into force on 6 July 2006.

Interpretation

2.—(1) In these Regulations—

"the Act" ("*y Ddeddf*") means the Animal Health Act 1981(**3**);

"avian influenza" ("*ffliw adar*") 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" ("*y Gorchymyn ffliw adar*") means the Avian Influenza and Influenza of Avian Origin in Mammals (Wales) Order 2006(**4**);

"the Directive" ("*y Gyfarwyddeb*") means Council Directive 2005/94/EC on Community measures for the control of avian influenza and repealing Directive 92/40/EEC(**5**);

(**1**) 1972 c. 68.
(**2**) S.I.2005/2766.
(**3**) 1981 c. 22, amended by S.I. 1992/3293 and the Animal Health Act 2002, c. 42. Other amendments are not relevant to these Regulations.
(**4**) S.I. 2006/1762 (W.184).
(**5**) OJ No. L 10, 14.1.2006, p. 16.

"emergency vaccination" ("*brechu brys*") has the same meaning as it has in Article 53 of the Directive.

"inspector" ("*arolygydd*") means an inspector appointed by a local authority for the purposes of these Regulations or under the Act, or a veterinary inspector;

"local authority" ("*awdurdod lleol*") means in relation to an area the county council or county borough council for that area;

"National Assembly" ("*Cynulliad Cenedlaethol*") means the National Assembly for Wales of Cathays Park, Cardiff CF10 3NQ

"other captive bird" ("*aderyn caeth arall*") means any bird kept in captivity which is not poultry and includes a bird kept for shows, races, exhibitions, competitions, breeding or for sale;

"poultry" ("*dofednod* ") means all birds that are reared or kept in captivity for the production of meat or eggs for consumption, the production of other products, for restocking supplies of game or for the purposes of any breeding programme for the production of these categories of birds;

"premises" ("*mangre*") includes any land, building or place;

"preventive vaccination" ("*brechu ataliol*") has the same meaning as it has in Article 56 of the Directive;

"vaccinate" ("*brechu*") means treat poultry or other captive birds with vaccine against avian influenza;

"veterinary inspector" ("*arolygydd milfeddygol*") means a veterinary inspector appointed by the National Assembly for the purposes of these Regulations or under the Act.

(2) Other expressions defined in the Directive have the same meaning in these Regulations.

Declarations, notices and licences

3.—(1) Declarations made under these Regulations—

(a) must be in writing;

(b) may be amended or revoked, by further declaration in writing, at any time;

(c) must designate the extent of the vaccination zone being declared;

(d) must refer to the minimum measures which apply in the vaccination zone and state whether they apply in all or part of the zone;

(e) must state which categories of birds the measures apply to; and

(f) must state at whose expense the measures are to be carried out.

(2) Notices issued under these Regulations—

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

(b) must specify whether they apply to all or part of the premises;

(c) must, if they apply to part of premises, specify to which part they apply;

(d) must refer to the minimum measures which apply to the premises;

(e) must state which categories of birds the measures apply to; and

(f) must state at whose expense the measures are to be carried out.

(3) Licences granted under these Regulations—

(a) must be granted by the National Assembly or by an inspector appointed by the local authority acting under its direction;

(b) must be in writing;

(c) may be general or specific;

(d) may, in addition to any conditions required by these Regulations, be made subject to such conditions as the National Assembly considers necessary to control disease; and

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

(4) The National Assembly must take such steps as it considers fit to ensure that declarations, notices and licences are brought to the attention of those who may be affected by them as soon as is reasonably practicable.

(5) The National Assembly must, in particular, ensure that the extent of any zone declared under these Regulations, the nature of the restrictions and requirements applicable within it and the dates of its declaration and withdrawal are publicised.

(6) Except as otherwise directed by the National Assembly (in a declaration of a vaccination zone or by notice to the licence holder), licences granted in Scotland, England or Northern Ireland for activities which could be licensed in Wales under these Regulations have effect in Wales as if they were licences granted under these Regulations.

(7) A person moving anything under the authority of a specific licence granted under these Regulations must—

(a) keep the licence or a copy of it with him or her at all times during the licensed movement;

(b) on demand made by an inspector or other officer of the National Assembly, produce the licence and allow a copy or extract to be taken; and

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

(8) A person moving anything under the authority of a general licence granted under these Regulations 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 and address of the originating premises;

(iv) the name and address of the place of destination.

(b) on demand by an inspector or by another officer of the National Assembly, produce the consignment note and allow a copy or extract to be taken; and

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

Prohibition on vaccination

4.—(1) No person is to vaccinate any bird against avian influenza except where required by the National Assembly in accordance with regulation 5 or 6.

(2) The prohibition in this regulation does not apply to—

(a) anything done under the authority of a licence granted under article 4 of the Specified Animal Pathogens Order 1998(**6**); or

(b) administration of a vaccine in accordance with an animal test certificate granted under regulation 8 of the Veterinary Medicines Regulations 2005(**7**).

(**6**) S.I. 1998/463.
(**7**) S.I. 2005/2745.

Decision to require emergency vaccination

5.—(1) Where the condition in paragraph (2) is fulfilled, the National Assembly must, if it considers necessary to reduce the risk of the spread of avian influenza—

(a) declare an emergency vaccination zone in all or part of Wales, where these areas contain poultry or other captive birds which it considers should be vaccinated; or

(b) serve an emergency vaccination notice on the occupier of any premises where poultry, other captive birds or any category of poultry or other captive bird which it considers should be vaccinated, are kept.

(2) The condition referred to in paragraph (1) is that the National Assembly has carried out a risk assessment which indicates that there is a significant and immediate threat of avian influenza spreading within or into Wales following—

(a) an outbreak of avian influenza within the United Kingdom;

(b) an outbreak of avian influenza within a nearby Member State; or

(c) confirmation of the presence of avian influenza in poultry or other captive birds in a nearby third country.

(3) Any premises which are partly inside and partly outside an emergency vaccination zone are deemed to be wholly within it.

Decision to require preventive vaccination

6.—(1) Where the conditions in paragraph (2) are fulfilled, the National Assembly must, if it considers necessary to reduce the risk of transmission of avian influenza—

(a) declare a preventive vaccination zone in all or part of Wales, where these areas contain poultry or other captive birds which it considers should be vaccinated; or

(b) serve a preventive vaccination notice on the occupier of any premises where poultry, other captive birds or any category of poultry or other captive bird which it considers should be vaccinated, are kept.

(2) The conditions referred to in paragraph (1) are—

(a) a risk assessment has been carried out by the National Assembly which indicates that all or certain areas of Wales, types of poultry husbandry or certain categories of poultry or other captive birds are exposed to the risk of avian influenza; and

(b) a preventive vaccination plan has been submitted to and approved by the Commission in accordance with Articles 56 and 57 of the Directive.

(3) Any premises which are partly inside and partly outside a preventive vaccination zone are deemed to be wholly within it.

Extension of the power to cause vaccination

7. Notwithstanding section 16(1) of the Act, the National Assembly may cause vaccination of poultry or captive birds which do not fall within that section where they are in a vaccination zone or within premises which are the subject of a vaccination notice and the following provisions of the Act apply as if such vaccination was carried out in exercise of the power in section 16(1)—

(a) sub-sections 16(2) to 16(17)(**8**) (treatment after exposure to infection);

(b) section 16A(**9**) (slaughter of vaccinated animals); and

(**8**) Section 16 was amended by the Animal Health Act 2002 (c. 42), section 7.
(**9**) Section 16A was inserted by the Animal Health Act 2002 (c. 42), section 5.

(c) section 62A(**10**) (slaughter: power of entry).

Measures applying in a vaccination zone or to premises under notice

8.—(1) The National Assembly must, in a declaration of a vaccination zone or in a vaccination notice—

(a) require the vaccination of poultry, other captive birds or any specified category of poultry or other captive bird in accordance with instructions issued by it; and

(b) where vaccination is to be carried out by the National Assembly, require co-operation with any person authorised by it to carry out vaccination.

(2) No person is to move any poultry, other captive bird or their products—

(a) out of a vaccination zone; or

(b) out of premises which are the subject of a vaccination notice;

except under the authority of a licence.

(3) In paragraph (2), the "products" ("*cynhyrchion*") of poultry or other captive birds means any carcase, egg or any other thing originating or made (whether in whole or in part) from poultry or other captive birds or the carcases of such birds.

(4) Paragraph (2) does not apply to—

(a) products which derive from poultry or other captive birds located outside a vaccination zone or premises which are the subject of a vaccination notice; or

(b) the retail distribution of poultry eggs and movements subsequent to such distribution.

(5) Paragraphs (2) to (4) apply without prejudice to any other requirement or restriction applying in any part of a zone or premises because that part of the zone or premises falls within another zone declared by the National Assembly, or is the subject of another notice served by the National Assembly, for the purposes of reducing the risk of the spread of avian influenza or any other purpose.

(6) Any person moving poultry, other captive birds or their products under this regulation must keep a record, in the form of a consignment note or otherwise, of the date of the movement and the registration of any vehicle used, for at least six weeks after the date of the movement.

Emergency vaccination without an approved plan

9.—(1) Where the National Assembly declares an emergency vaccination zone or serves an emergency vaccination notice before an emergency vaccination plan has been approved by the Commission in accordance with Article 54 of the Directive—

(a) a licence issued under regulation 8(2) must impose the conditions set out in the Schedule;

(b) the owner or driver of any vehicle or other means of transport used for transporting live poultry or other captive birds, poultry eggs or poultry meat under such a licence must, as soon as reasonably practicable after use, cleanse and disinfect that vehicle and any equipment used in the transportation of such material in accordance with Part 1 of Schedule 3 of the Avian Influenza Order insofar as it is applicable to vehicles;

(c) a veterinary inspector must, by notice to the owner or driver of a vehicle or other means of transport referred to in sub-paragraph 1(b), require the destruction of any thing which may be contaminated with avian influenza virus and which he or she considers cannot be cleansed and disinfected or treated.

(2) Under sub-paragraph (1)(b), disinfection must be carried out in accordance with Article 66(4) of The Avian Influenza Order.

(**10**) Section 62A was inserted by the Animal Health Act 2002 (c. 42), section 8.