WELSH STATUTORY INSTRUMENTS

2005 No. 2985 (W.219)

ANIMALS, WALES

ANIMAL HEALTH

The Avian Influenza (Preventive Measures) (Wales) Regulations 2005

Made - - - -	*28 October 2005 at 17:05*
Coming into force - -	*28 October 2005 at 17:20*

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, commencement and application

1. The title of these Regulations is the Avian Influenza (Preventive Measures) (Wales) Regulations 2005; they apply in relation to Wales and come into force on 28 October 2005 at 17:20.

Interpretation

2. In these Regulations —

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

"Assembly Secretary" means the Assembly Secretary with responsibility for the Environment, Planning and Countryside appointed under section 53(2) of the Government of Wales Act 1998(**4**);

"the 2005 avian influenza survey" means the survey for avian influenza being carried out by the National Assembly in accordance with Commission Decision 2005/464/EC on the implementation of survey programmes for avian influenza in poultry and wild birds to be carried out in the Member States (**5**) and with the national plan approved by Commission Decision 2005/732/EC approving the programmes for the implementation of Member States'

(**1**) 1972, c. 68.
(**2**) S.I. 2005/1971.
(**3**) 1981, c. 22.
(**4**) 1998, c. 38.
(**5**) OJ No L 164, 24.6.2005, p.52, as amended by Commission Decision 2005/726/EC (OJ No L 273, 19.10.2005, p.21).

surveys for avian influenza in poultry and wild birds during 2005 and laying down reporting and eligibility rules for the Community financial contribution to the implementation costs of those programmes(**6**));

"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;

"commercial poultry premises" means premises where poultry are kept for commercial purposes and does not include premises where all poultry and their eggs are kept by their owners for their own consumption or, in case of poultry, as pets;

"the Commission Decision" means Commission Decision 2005/734/EC laying down biosecurity measures to reduce the risk of transmission of highly pathogenic avian influenza caused by influenza A virus of subtype H5N1 from birds living in the wild to poultry and other captive birds and providing for an early detection system in areas at particular risk (**7**);

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

"local authority" means in relation to an area the county council or county borough council for that area;

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

"other captive bird" means any bird other than poultry kept in captivity, including any bird kept for shows, races, exhibitions and competitions (such as ornamental birds and racing pigeons);

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

"veterinary inspector" means an inspector appointed by the Assembly Secretary under or for the purposes of these Regulations or by the National Assembly or Assembly Secretary under the Act.

Licences, notices and declarations

3.—(1) Licences, notices and declarations under these Regulations must be in writing, may be subject to conditions and may be amended, suspended or revoked in writing at any time.

(2) The Assembly Secretary must take such steps as he or she considers necessary to ensure that licences, notices and declarations are brought to the attention of those who may be affected by them and, in particular, must 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 (and any suspension of it) are publicised.

Risk assessment and imposition of restrictions

4.—(1) The Assembly Secretary must evaluate the risk of the transmission of avian influenza virus (in particular virus of the subtype H5N1) from wild birds to poultry or other captive birds in Wales, taking into account the criteria and risk factors set out in Annex I to the Commission Decision.

(2) Having carried out such an evaluation, the Assembly Secretary must, if he or she considers it necessary to reduce the risk of transmission of avian influenza (in particular virus of the subtype H5N1) —

(**6**) OJ No L 274, 20.10.2005, p.95.
(**7**) OJ No L 274, 20.10.2005, p. 105, as amended by Commission Decision 2005/745/EC (OJ No L 279, 22.10.2005, p.79).

(a) declare an avian influenza prevention zone in all or part of Wales; or

(b) serve a restrictions notice on the occupier of any premises where poultry, other captive birds or any specified species of poultry or captive birds are kept.

(3) A restrictions notice may, on the instruction of the Assembly Secretary, be served by an inspector.

(4) The Assembly Secretary must, in a declaration of an avian influenza prevention zone or in a restrictions notice, impose (to the extent that they are appropriate and practicable) such of the following restrictions as he or she considers necessary —

(a) poultry and other captive birds must be housed or otherwise kept separate from wild birds;

(b) domestic ducks and geese must be housed or otherwise kept separate from other poultry and other captive birds;

(c) poultry and other captive birds must be fed and provided with drinking water indoors or under a shelter which prevents wild birds from gaining access to the food or water supply;

(d) bodies of water to which poultry have access for animal welfare reasons must be sufficiently screened off from wild waterfowl;

(e) drinking water provided to poultry and other captive birds must not be sourced from surface water reservoirs unless the water has been treated to render any virus it may contain inactive;

(f) birds of the orders *Anseriformes* (including ducks, geese and swans) and *Charadriformes* (including gulls, murres, terns, avocets, puffins, woodcock, oystercatchers, sandpipers, plovers, surfbirds, snipes and skimmers) must not be used as decoys during bird-hunting except —

(i) for the purpose of attracting birds for sampling as part of the 2005 avian influenza survey; and

(ii) under the authority of a licence granted by a veterinary inspector;

(g) keepers of poultry or other captive birds must immediately notify the Assembly Secretary of the following as regards any flock of such birds —

(i) any drop in feed and water intake of more than 20%;

(ii) any drop in egg production of more than 5% for more than 2 days; or

(iii) a mortality rate greater than 3% in a week;

(h) keepers of poultry and other captive birds and any other persons who come into contact with such birds or who enter or leave premises where they are kept must take appropriate biosecurity measures;

(i) such other appropriate and practicable requirements as the Assembly Secretary considers necessary—

(aa) to prevent any direct or indirect contact which wild birds might otherwise have with poultry and other captive birds; and

(bb) to ensure separation between domestic ducks and geese on the one hand and other poultry on the other.

(5) A declaration of an avian influenza prevention zone must —

(a) specify the boundaries of the avian influenza prevention zone; and

(b) specify the requirements which apply in the zone.

(6) Any premises which are partly inside and partly outside an avian influenza prevention zone are deemed to be wholly within it.