STATUTORY RULES OF NORTHERN IRELAND

2008 No. 235

PLANNING

The Planning (Avian Influenza) (Special Development) Order (Northern Ireland) 2008

Made - - - -	*2nd June 2008*
Coming into operation	*1st July 2008*

The Department of the Environment, in exercise of the powers conferred by Article 13 of the Planning (Northern Ireland) Order 1991(**1**) makes the following Order:

Citation, commencement and application

1.—(1) This Order may be cited as the Planning (Avian Influenza) (Special Development) Order (Northern Ireland) 2008 and shall come into operation on 1st July 2008.

(2) This Order applies in relation to land within the boundaries of a controlled zone, H5N1 controlled zone, wild bird control area or wild bird monitoring area declared by the Department of Agriculture and Rural Development and to any identified premises.

Interpretation

2.—(1) In this Order—

"any identified premises" means any land, building or other place identified by the Department of Agriculture and Rural Development in a notice containing the address, written description of the premises and a plan indicating its location, which is not a controlled zone, H5N1 controlled zone, wild bird control area, or wild bird monitoring area;

"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;

"controlled zone" has the same meaning as in regulation 2 of the Avian Influenza and Influenza of Avian Origin in Mammals Regulations (Northern Ireland) 2007(**2**);

"existing", in relation to any building, means existing immediately before the carrying out, in relation to that building, of development described in Article 3(1);

(**1**) S.I.1991/1220 (N.I. 11) as amended by S.I.2003/430 (N.I.8) and S.I. 2006/1252 (N.I.)
(**2**) S.R.2007 No. 68

"H5N1 controlled zone" has the same meaning as in regulation 2 of the Avian Influenza (H5N1 in Poultry) Regulations (Northern Ireland) 2007(**3**);

"other captive bird" means any bird other than poultry that is kept in captivity and includes a bird kept for shows, races, exhibitions, competitions, breeding or selling;

"poultry" 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;

"the principal Order" means the Planning (General Development) Order (Northern Ireland) 1993(**4**);

"relevant date" means whichever is the earlier of the following dates—

(a) the date on which the use of the buildings permitted by Article 3(1) ceases; or

(b) the date on which the controlled zone, H5N1 controlled zone, wild bird control area or wild bird monitoring area referred to in Article 1(2) is revoked;

"relevant notice" means a notice signed and dated by or on behalf of the developer and containing—

(a) the name of the developer;

(b) the address or location of the development (including a site plan and grid reference);

(c) the name and address of the owner and occupier of the land on which the development is being carried out (if different from sub-paragraph (a));

(d) a description of the development (including the type of poultry or other captive birds to be protected); and

(e) the date on which the development commenced;

"unit" means land which is occupied by the same person;

"wild bird control area" means a wild bird control area as defined in regulation 2 of The Avian Influenza (H5N1 in Wild Birds) Regulations (Northern Ireland) 2007(**5**);

"wild bird monitoring area" means a wild bird monitoring area as defined in regulation 2 of The Avian Influenza (H5N1 in Wild Birds) Regulations (Northern Ireland) 2007.

(2) Any reference in this Order to the height of a building is to be construed as a reference to its height when measured from ground level; and for the purposes of this paragraph "ground level" means the level of the surface of the ground immediately adjacent to the building in question or, where the level of the surface of the ground on which it is situated is not uniform, the level of the highest part of the surface of the ground adjacent to it.

Temporary protection of birds from avian influenza

3.—(1) Subject to the provisions of this Article, planning permission is granted for the erection of a building on land to which this Order applies for the purposes of housing poultry or other captive birds to protect them from avian influenza.

(2) Development is not permitted by paragraph (1) if—

(a) the development would affect a listed building or its setting;

(b) the height of any part of the building within 3 kilometres of the perimeter of an aerodrome exceeds 3 metres or 12 metres in any other case;

(**3**) S.R. 2007 No. 207. A copy of the declaration may be viewed at www.dardni.gov.uk
(**4**) S.R. 1993 No. 278 to which relevant amendments have been made by S.R. 1999 No. 73 and S.R. 2006 No. 276
(**5**) S.R.2007 No. 208. A copy of the declaration may be viewed at www.dardni.gov.uk