STATUTORY RULES OF NORTHERN IRELAND

2007 No. 208

ANIMALS

ANIMAL HEALTH

The Avian Influenza (H5N1 in Wild Birds) Regulations (Northern Ireland) 2007

Made - - - -	*23rd March 2007*
Coming into operation	*24th March 2007*

The Department of Agriculture and Rural Development, being designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**) in relation to the common agricultural policy of the European Community, makes the following Regulations in exercise of the powers conferred on it by that section.

PART I

INTRODUCTION

Citation and commencement

1. These Regulations may be cited as the Avian Influenza (H5N1 in Wild Birds) Regulations (Northern Ireland) 2007 and shall come into operation on 24th March 2007.

Interpretation

2.—(1) In these Regulations—

"avian influenza" means an infection of 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 Regulations" means the Avian Influenza and Influenza of Avian Origin in Mammals Regulations (Northern Ireland) 2007(**3**);

"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 and 6 of Regulation (EC) No. 1774/2002;

(**1**) S.I. 2000/2812
(**2**) 1972 c. 68
(**3**) S.R. 2007 No. 68

"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;

"the Department" means the Department of Agriculture and Rural Development;

"designated" means designated in accordance with regulation 13 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;

"hatching egg" means an egg for incubation laid by any poultry;

"H5N1" means the highly pathogenic avian influenza virus of the H5 subtype and the neuraminidase N1;

"inspector" means a person appointed by the Department to be an inspector for the purposes of these Regulations and includes a veterinary inspector;

"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 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;

"the 1981 Order" means the Diseases of Animals (Northern Ireland) Order 1981;

"other captive bird" means a bird kept in captivity which is not poultry and includes a bird kept for shows, races, exhibitions or competitions, breeding, or sale but excludes—

(a) pet animals of the bird species as referred to in Article 3(a) of Regulation (EC) No 998/2003;

(b) birds for zoos, circuses, amusement parks and experimental laboratories and sentinel birds placed by the competent authority in the frame of surveillance and research activities;

"outbreak point" has the meaning given by regulation 6(1);

"poultry" means all birds reared or kept in captivity for—

(a) the production of meat or eggs for consumption,

(b) the production of other products,

(c) restocking supplies of game birds, or

(d) the purposes of any breeding programme for the production of these 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. 853/2004 of the European Parliament and of the Council laying down specific hygiene rules for food of animal origin as amended(**4**);

"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, as last amended by Commission Regulation (EC) No 2007/2006(**5**);

"slaughterhouse" means a premises used for slaughtering poultry, the meat of which is intended for human consumption;

"vehicle" 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 regulation 5(2) or 5(3);

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

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

(2) The Interpretation Act (Northern Ireland) 1954(**6**) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

Declarations and notices

3.—(1) A declaration of a wild bird control area or wild bird monitoring area—

(a) must be in writing;

(b) may be subject to conditions and may be amended or withdrawn, by further declaration at any time;

(c) must designate the extent of the area which is 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) A notice served under these Regulations—

(a) must be in writing;

(b) may be subject to conditions and may be amended, suspended or revoked, by a further notice, at any time;

(c) must specify whether it applies to all or part of a premises to which it relates; and

(**4**) O.J. No. L 139, 30.4.2004, p. 55, as last amended by O.J. No. L 320, 18.11.2006, p. 1
(**5**) O.J. No. L 273, 10.10.2002, p1. as last amended by O.J. No. L 379, 28.12.2006, p98 and corrected by a corrigendum (O.J. No. L 30, 3.2.2007, p 3)
(**6**) 1954 c. 33 (N.I.)

(d) must, if it applies to part of a premises, specify to which part it applies.

(3) The Department must ensure that the extent of any wild bird control area or wild bird monitoring area declared under these Regulations, the nature of the restrictions and requirements applicable within it and the dates of its declaration and withdrawal are publicised.

Licences

4.—(1) The Department shall not grant a licence under these Regulations for the movement of any poultry, other captive bird, hatching egg, controlled meat or bird by-product unless it has taken account of the relevant risk assessment.

(2) In paragraph (1), "the relevant risk assessment" means the Department's assessment of the risk that the particular movement or a movement of that type would spread avian influenza.

(3) A licence granted under these Regulations—

(a) must be in writing;

(b) may be either a general licence or a specific licence;

(c) must be made subject to such conditions as the Department considers necessary to control the spread of avian influenza; and

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

(4) A person moving anything under the authority of a specific licence must—

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

(b) on demand made by an inspector produce the licence or copy and allow a copy or extract of it to be taken; and

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

(5) A person moving anything under the authority of a general licence must—

(a) keep with him, at all times during the licenced 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 made by an inspector produce the consignment note and allow a copy or extract to be taken; and

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

(6) Unless the Department directs otherwise in a declaration of a wild bird control area or a wild bird monitoring area or by notice served on the occupier of any premises or on the owner or occupier of any vehicle, any movement that has already started when such a declaration comes into force may be completed.

PART II

CONFIRMATION OR SUSPICION OF H5N1

Confirmation or suspicion of H5N1 in wild birds

5.—(1) This regulation applies if the Department is of the opinion that—

(a) the avian influenza virus of the H5 subtype is present in a wild bird or the carcase of a wild bird in Northern Ireland or the Republic of Ireland; and

(b) either—

(i) it suspects that the neuraminidase type may be N1, or

(ii) the neuraminidase has been confirmed as N1.

(2) If the wild bird or carcase was found in Northern Ireland, the Department must declare—

(a) a wild bird control area; and

(b) a wild bird monitoring area.

(3) If the wild bird or carcase was found in the Republic of Ireland—

(a) subject to sub-paragraphs (b) and (c), the Department may declare a wild bird control area or a wild bird monitoring area;

(b) the Department must, if the wild bird or carcase was found within three kilometres of the border with Northern Ireland, declare a wild bird control area of such size, shape and location as is necessary to complete the wild bird control area centred on the outbreak point in the Republic of Ireland; and

(c) the Department must, if the wild bird or carcase was found within ten kilometres of the border with Northern Ireland, declare a wild bird monitoring area of such size, shape and location as is necessary to complete the monitoring area centred on the outbreak point in the Republic of Ireland.

(4) Paragraphs (2), (3)(b) and (3)(c) do not apply if the Department 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 control area or the wild bird monitoring area; and

(b) 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 Department amends the declaration made under paragraphs (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 Department withdraws the declaration.

(7) An area shall remain a wild bird monitoring area until the Department withdraws the declaration made under paragraph (2)(b), (3)(a) or (3)(c).

(8) Subject to paragraph (9), premises which are only partly in a wild bird control area or a wild bird monitoring area are deemed to be wholly within that area.

(9) Premises which are partly in a wild bird control area and partly in a wild bird monitoring area are deemed to be wholly in the wild bird control area.