STATUTORY RULES OF NORTHERN IRELAND

2007 No. 207

ANIMALS

ANIMAL HEALTH

The Avian Influenza (H5N1 in Poultry) 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.

Citation and commencement

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

Interpretation

2.—(1) In these Regulations—

"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(**3**);

"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 Regulations" means the Avian Influenza and Influenza of Avian Origin in Mammals Regulations (Northern Ireland) 2007(**4**);

(**1**) S.I. 2000/2812
(**2**) 1972 c. 68
(**3**) O.J. 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 O.J. No. L 226, 25.6.2004, p. 128
(**4**) S.R. 2007 No. 68

"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 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(**5**), as amended by Commission Decision 2007/128/EC and as also amended by the Commission Decision 2007/119/EC amending Decisions 2006/415/EC, 2006/416/EC and 2006/563/EC as regards the identification mark to be applied to fresh poultry meat(**6**);

"competent authority" means in Great Britain, the Secretary of State, or elsewhere the authority in a member State or third country concerned authorised by it to carry out its functions under the Commission Decision;

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

"designated" means designated by the Department in accordance with regulation 3(5) and (7) and "undesignated" is construed accordingly;

"disinfect" means disinfect in accordance with regulation 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,

(e) a restricted zone;

"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, whether on a permanent or temporary basis, but does not include a person responsible for them solely because he 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;

"the 1981 Order" means the Diseases of Animals (Northern Ireland) Order 1981(**7**);

"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 all birds reared or kept in captivity for—

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

(**5**) O.J. No. L 164, 16.6.2006, p. 51 as last amended by O.J. No. L 53, 22.2.2007, p. 26
(**6**) O.J. No. L 51, 20.2.2007, p22
(**7**) S.I. 1981/1115 (N.I.22) as amended by S.I. 1984/702 (N.I.2) Article 17, S.I. 1994/1891 (N.I.6) Article 22

(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;

"protection zone" means a protection zone declared under regulation 28(1) to (4) of the Avian Influenza Regulations following confirmation by the Department 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, as last amended by Commission Regulation (EC) No 2007/2006(**8**);

"restricted zone" means a restricted zone declared under the Avian Influenza Regulations in accordance with regulation 8(2) of these Regulations;

"surveillance zone" means a surveillance zone declared under regulation 28(1) to (4) of the Avian Influenza Regulations following confirmation by the Department of highly pathogenic avian influenza of subtype H5N1 in poultry;

"temporary control zone" means a temporary control zone declared under the Avian Influenza Regulations in accordance with regulation 6(2) of these Regulations;

"temporary movement restriction zone" means a temporary movement restriction zone declared under the Avian Influenza Regulations in accordance with regulation 6(2) of these Regulations;

"unrestricted area" means any part of the United Kingdom which is not part of a H5N1 controlled zone declared under these Regulations or an equivalent zone in England, Scotland or Wales;

"vehicle" includes any means of transport and 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 on a vehicle; and

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

(2) Any premises in Great Britain, a member State or a third country which is designated by the competent authority for those premises for purposes corresponding to a designation under these Regulations, are deemed to be designated for the purposes of these Regulations.

(3) The Interpretation Act (Northern Ireland) 1954(**9**) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

Licences, notices, designations and declarations

3.—(1) A licence granted under these Regulations—

(a) must be in writing;

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

(c) may, in addition to any conditions required by these Regulations, be made subject to such conditions as the Department considers necessary to control avian influenza; and

(**8**) O.J. No. L 273, 10.10.2002, p 1 as last amended by O.J. L 379, 28.12.2006, p 98 and corrected by a corrigendum O.J. No. L 30, 3.2.2007, p 3

(**9**) 1954 c. 33 (N.I.)

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

(2) The Department must not grant a movement licence under regulations 10, 11, 12 or 15 unless it has taken account of the relevant risk assessment.

(3) In paragraph (2), "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.

(4) 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 to part of the premises to which it relates; and

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

(5) The Department may, for the purposes of these Regulations designate any premises or part of any premises and such a designation—

(a) must be in writing;

(b) must if it applies to only part of the premises, specify to which part it applies;

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

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

(6) A declaration of a zone—

(a) must be in writing;

(b) must specify the date on which it shall come into operation;

(c) may be amended by a further declaration at any time;

(d) must designate the extent of the zone being declared;

(e) must list or refer to the measures which apply in such a zone and if they apply in only part of the zone, state in which part they apply; and

(f) may be withdrawn by a further declaration.

(7) Unless the Department directs otherwise by notice served on the occupier of the premises, the following premises are deemed to be designated—

(a) premises designated or deemed to be designated under regulation 71 of the Avian Influenza Regulations;

(b) the following plants, if approved under regulation 14 of the Animal By-Products Regulations (Northern Ireland) 2003(**10**)—

(i) incineration plants,

(ii) processing plants,

(iii) oleochemical plants,

(iv) biogas plants,

(v) composting plants,

(vi) petfood plants,

(vii) technical plants.

(8) Premises in England, Scotland or Wales designated respectively by the English Ministers, Scottish Ministers or the National Assembly for the same purposes as they may be designated

(**10**) S.R. 2003 No. 495 as amended by S.R. 2006 No. 202

under these Regulations are deemed to be designated by the Department for the purposes of these Regulations.

(9) A specific licence shall apply to the applicant therefor.

(10) 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 movement so authorised;

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

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

(11) A general licence shall apply to all persons or movements, or any class of persons or movements specified therein.

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

(a) keep with him, at all times during the movement so authorised, 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 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.

(13) The Department 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 are publicised in such manner as the Department considers necessary.

Restrictions relating to things moved from Great Britain

4.—(1) Measures in and under these Regulations 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 Great Britain.

(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 regulation 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 regulation 6(2); and

(b) a restricted zone.