STATUTORY RULES OF NORTHERN IRELAND

2005 No. 485

ANIMALS

ANIMAL HEALTH

The Avian Influenza (Preventive Measures) Regulations (Northern Ireland) 2005

Made - - - - 4th November 2005

The Department of Agriculture and Rural Development(**1**), is designated(**2**) for the purposes of section 2(2) of the European Communities Act 1972(**3**) in relation to the common agricultural policy of the European Community(**4**). Exercising the powers conferred upon it by that section, it makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Avian Influenza (Preventive Measures) Regulations (Northern Ireland) 2005 and come into operation on 4th November 2005.

Interpretation

2.—(1) In these Regulations—

"the 2005 avian influenza survey" means the survey for avian influenza being carried out by the Department 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' 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;

(**1**) The Department of Agriculture for Northern Ireland was renamed the Department of Agriculture and Rural Development by Article 3(4) of the Departments Order 1999 (S.I. 1999/283 (N.I. 1))
(**2**) S.I. 2000/2812
(**3**) 1972, c. 68
(**4**) S.I. 1972/1811
(**5**) O.J. No. L No 164, 24.6.2005, p. 52, as amended by Commission Decision 2005/726/EC (OJ No L 273, 19.10.2005, p. 21)
(**6**) O.J. No. L 274, 20.10.2005, p. 95

"avian influenza prevention zone" means any area declared as such under regulation 4(2)(a);

"the Commission Decision" means Commission Decision 2005/734/EC(**7**) 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, as amended by Commission Decision 2005/745/EC(**8**);

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

"general licence" means a licence issued under these Regulations which applies to all persons, or any class of persons specified therein;

"inspector" means a person appointed to be an inspector for the purpose of these Regulations or under the Order by the Department;

"the Order" means the Diseases of Animals (Northern Ireland) Order 1981(**9**);

"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;

"premises" means land, with or without buildings;

"restrictions notice" means a notice served under regulation 4(2)(b);

"specific licence" means a licence issued under these Regulations which only applies to the applicant therefor.

(2) The Interpretation Act (Northern Ireland) 1954(**10**) shall apply to these Regulations as it applies to an Act of the Assembly.

Licences, notices and declarations

3.—(1) A notice or declaration under these Regulations shall be in writing, may be subject to conditions and may be amended, suspended or revoked in writing at any time.

(2) A licence under these Regulations shall be in writing, may be subject to conditions and may be either a general licence or a specific licence.

(3) A general licence shall be issued by the publication of it in such manner and to such extent as appears to the Department to be sufficient to bring it to the notice of those persons likely to be affected by it.

(4) The Department may amend, suspend or revoke any licence under these Regulations—

(a) in the case of a general licence, by a notice published so far as is practicable, in the same manner and to the same extent as the licence; and

(b) in the case of a specific licence, by a notice served on the person to whom the licence was issued.

(5) The Department may amend, suspend or revoke a general licence insofar as it applies to any particular person by notice served on that person.

(6) The Department shall take such steps as it considers necessary to ensure that notices or declarations are brought to the attention of those who may be affected by them and, in particular, shall ensure that the extent of any zone declared under these Regulations, the nature of the restrictions and

(**7**) O.J. No. L 274, 20.10.2005, p. 105
(**8**) O.J. No. L 279, 22.10.2005, p.79
(**9**) 1981 No. 1115 (N.I. 22) as amended by S.I. 1984/702 (N.I. 2) Article 17 and S.I.1994/1891 (N.I. 6) Articles 19, 22 and 23
(**10**) 1954 c. 33 (N.I.)

requirements applicable within it and the dates of its declaration and revocation (and any suspension of it) are publicised.

Risk assessment and imposition of restrictions

4.—(1) The Department shall 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 Northern Ireland, 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 Department shall, if it considers it necessary to reduce the risk of transmission of avian influenza (in particular virus of the subtype H5N1)—

(a) declare an avian influenza prevention zone in all or part of Northern Ireland; and

(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) The Department shall, in a declaration of an avian influenza prevention zone under paragraph (2)(a) or in a restrictions notice, impose to the extent that they are appropriate and practicable, such of the following requirements as it 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 *Charadriiformes* (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 issued by the Department;

(g) keepers of poultry or other captive birds must immediately notify the Department 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;

(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 Department considers necessary—

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