
SCOTTISH STATUTORY INSTRUMENTS

2006 No. 337

**The Avian Influenza (Slaughter and
Vaccination) (Scotland) Regulations 2006**

Vaccination

Prohibition on vaccination

11.—(1) No person shall vaccinate any poultry or other captive bird against avian influenza except where required by the Scottish Ministers in accordance with regulation 12 or 13.

(2) The prohibition in paragraph (1) does not apply to—

- (a) anything done under the authority of a licence granted under article 4 of the Specified Animal Pathogens Order 1998⁽¹⁾; or
- (b) administration of a vaccine in accordance with an animal test certificate granted under regulation 8 of the Veterinary Medicines Regulations 2005⁽²⁾.

Decision to require emergency vaccination

12.—(1) Where the condition in paragraph (2) is fulfilled, the Scottish Ministers must, if they consider it necessary to reduce the risk of the spread of avian influenza—

- (a) declare an emergency vaccination zone in all or part of Scotland, where these areas contain poultry or other captive birds which they consider should be vaccinated; or
- (b) serve an emergency vaccination notice on the occupier of any premises where poultry, other captive birds or any category of poultry or other captive bird which they consider should be vaccinated, are kept.

(2) The condition referred to in paragraph (1) is that the Scottish Ministers have carried out a risk assessment which indicates that there is a significant and immediate threat of avian influenza spreading within or into Scotland following—

- (a) an outbreak of avian influenza within the United Kingdom;
- (b) an outbreak of avian influenza within a nearby Member State; or
- (c) an outbreak of avian influenza in poultry or other captive birds in a nearby third country.

(3) Any premises which are partly inside and partly outside an emergency vaccination zone are deemed to be wholly within it.

Decision to require preventive vaccination

13.—(1) Where the conditions in paragraph (2) are fulfilled, the Scottish Ministers must, if they consider it necessary to reduce the risk of the spread of avian influenza—

- (a) declare a preventive vaccination zone in all or part of Scotland, where these areas contain poultry or other captive birds which they consider should be vaccinated; or

(1) S.I.1998/463.

(2) S.I. 2005/2745.

- (b) serve a preventive vaccination notice on the occupier of any premises where poultry, other captive birds or any category of poultry or other captive bird which they consider should be vaccinated, are kept.
- (2) The conditions referred to in paragraph (1) are–
 - (a) a risk assessment has been carried out by the Scottish Ministers which indicates that all or certain areas of Scotland, types of poultry husbandry or types of poultry or other captive birds are exposed to the risk of avian influenza; and
 - (b) a preventive vaccination plan has been submitted to and approved by the Commission in accordance with Articles 56 and 57 of the Directive.
- (3) Any premises which are partly inside and partly outside a preventive vaccination zone are deemed to be wholly within it.

Extension of the power to cause vaccination

14. Notwithstanding section 16(1) of the Act, the Scottish Ministers may cause vaccination of poultry or captive birds which do not fall within that section where they are in a vaccination zone or within premises which are the subject of a vaccination notice and section 16 of the Act shall apply as if such vaccination was carried out in exercise of the power in section 16(1).

Measures applying in a vaccination zone or to premises under notice

15.—(1) The Scottish Ministers must, in a declaration of a vaccination zone or in a vaccination notice–

- (a) require the vaccination of poultry, other captive birds or any specified category of poultry or other captive bird in accordance with instructions issued by them; and
- (b) where vaccination is to be carried out by the Scottish Ministers, require co-operation with any person authorised by them to carry out vaccination.
- (2) No person shall move any poultry, other captive bird or their products–
 - (a) within, into or out of a vaccination zone; or
 - (b) into or out of premises stipulated in a vaccination notice,

except under the authority of a licence issued by a veterinary inspector or an inspector under the direction of a veterinary inspector.

(3) In paragraph (2), “products” of poultry or other captive birds means any carcase, egg or any other thing originating or made (whether in whole or in part) from poultry or other captive birds or the carcasses of such birds.

- (4) Paragraph (2) does not apply to–
 - (a) products (other than eggs) which derive from poultry or other captive birds originating and slaughtered outside a vaccination zone or premises which are the subject of a vaccination notice; or
 - (b) the retail distribution of poultry eggs after packing and movements subsequent to such distribution.

(5) Paragraphs (2) to (4) apply without prejudice to any other requirement or restriction applying in any part of a zone or premises because that part of the zone or premises falls within another zone declared by the Scottish Ministers, or is the subject of another notice served by the Scottish Ministers, for the purposes of reducing the risk of the spread of avian influenza.

(6) Any person moving poultry, other captive birds or their products within, into or out of a vaccination zone or into or out of premises stipulated in a vaccination notice must keep a record, in

the form of a consignment note or otherwise, of the date of the movement and the registration of any vehicle used, for at least six weeks after the date of the movement.

Emergency vaccination without an approved plan

16.—(1) Where the Scottish Ministers declare an emergency vaccination zone or serve an emergency vaccination notice under regulation 12(1) before an emergency vaccination plan has been approved by the Commission in accordance with Article 54 of the Directive—

- (a) a licence issued under regulation 15(2) must impose the conditions set out in the Schedule;
- (b) the owner or driver of any vehicle or other means of transport used for transporting live poultry or other captive birds, poultry eggs or poultry meat under such a licence must, as soon as reasonably practicable after use, cleanse and disinfect that vehicle and any equipment used in the transportation of such material in accordance with Part 1 of Schedule 3 to the Avian Influenza Order insofar as it is applicable to vehicle, and for this purpose references to “this Order” in Part 1 of Schedule 3 of the Avian Influenza Order shall be read as references to these Regulations;
- (c) a veterinary inspector must, by notice to the owner or driver of a vehicle or other means of transport referred to in paragraph (1)(b), require the destruction of any thing which may be contaminated with avian influenza virus and which the inspector considers cannot be cleansed and disinfected or treated.

(2) Under paragraph (1)(b), disinfection must be carried out in accordance with Article 65(4) of the Avian Influenza Order.

(3) Packing centres and slaughterhouses which are designated under the Avian Influenza Order are designated for the purpose of receiving poultry, other captive birds, poultry eggs or poultry meat (as the case may be) which are moved under a licence granted under regulation 15(2) in the circumstances described in paragraph (1).

(4) Upon approval of the emergency vaccination plan in accordance with Article 54 of the Directive, the Scottish Ministers or an inspector acting under their direction may vary the conditions in the licence referred to in paragraph (1)(a).

Failure to vaccinate birds specified for vaccination

17.—(1) Any person (other than an inspector) who knows or suspects that the Scottish Ministers have required a bird to be vaccinated, but that bird was not vaccinated at the time when it should have been, must immediately notify the Divisional Veterinary Manager for the area in which that bird is located.

(2) If an inspector knows or suspects that the Scottish Ministers have required a bird to be vaccinated, but that bird was not vaccinated at the time when it should have been, the inspector shall arrange for that bird to be vaccinated as soon as is reasonably practicable.

Cleansing and disinfection of vehicles: provision of facilities, equipment and materials

18. Where cleansing and disinfection of vehicles is required at any premises by or under these Regulations, the occupier of those premises must provide adequate facilities and proper equipment and materials for that cleansing and disinfection.

Change of occupation of premises under restriction

19.—(1) This regulation applies if the keeper of any poultry or other captive bird is unable to move it from premises on the termination of the keeper’s right of occupation because of a movement

restriction imposed by or under these Regulations and continues to apply for seven days after any such restriction has been removed.

(2) Where this regulation applies, the person entitled to occupation of the premises on that termination must—

- (a) provide such facilities for feeding, tending or otherwise using the poultry or other captive bird (including selling it) as the keeper may reasonably require; and
- (b) allow entry to the premises to that keeper and any person authorised by that keeper at reasonable times for feeding, tending or otherwise using the poultry or other captive bird.

(3) If the keeper is unable or unwilling to feed or tend the poultry or other captive bird, the person entitled to occupation of the premises shall take such steps as are necessary to ensure it is properly fed and tended.

(4) The keeper of the poultry or other captive bird is liable to pay the reasonable costs (including accommodation costs) incurred under this regulation by any person feeding or tending it, or providing facilities for feeding, tending or otherwise using it.

Reasonable assistance

20. Any person required to give reasonable assistance or information to a person acting in the execution of these Regulations for the performance of that person's functions under them must, unless that person has reasonable cause, do so without delay.

False information

21. No person shall furnish information which that person knows to be false or misleading to a person acting in the execution of these Regulations.

Production of records

22.—(1) Any person required to produce a record by a person acting in the execution of these Regulations must do so without delay.

- (2) On production, a person acting in the execution of these Regulations may—
 - (a) copy any records, in whatever form they may be held; or
 - (b) remove any records to enable them to be copied, or where they are kept electronically, require them to be produced in a form which may be taken away.
- (3) A person removing records under this regulation must give a written receipt for them.

Compliance with notices and declarations

23. Any person on whom a notice under these Regulations is served, or to whom a declaration or licence under these Regulations applies, who contravenes or fails to comply with the requirements or restrictions in that notice, declaration or licence shall be guilty of an offence.

Powers of inspectors

24.—(1) The following provisions of the Act apply as if these Regulations were an Order made under the Act and as if the definition of poultry in section 87(4) of the Act were extended to include all birds—

- (a) section 63 (general powers of inspectors);
- (b) section 64A (powers of inspectors relating to Community obligations); and
- (c) section 65(1) to (3) (power to detain vessels and aircraft).

(2) An inspector may mark any bird or other thing for identification purposes.

(3) Any person who defaces, obscures or removes any mark applied under paragraph (2) shall be guilty of an offence.

Inspection of vehicles

25.—(1) If one of the conditions in paragraph (2)(a) is satisfied and the condition in paragraph (2)(b) is satisfied an inspector may stop, detain and inspect any vehicle to ascertain whether the provisions of these Regulations or the Avian Influenza Order or of any licence, declaration or notice under these Regulations or the Avian Influenza Order, are being complied with.

(2) The conditions are that—

(a) the vehicle is—

(i) in a controlled zone, during the period of the existence of the zone;

(ii) in a vaccination zone, during the period of the existence of the zone;

(iii) on premises specified in a vaccination notice, during the period for which the notice applies; and

(b) that the inspector is accompanied by a constable in uniform.

Enforcement and offences

26.—(1) The following provisions of the Act apply as if these Regulations were an Order made under the Act—

(a) section 60 (duties and authorities of constables);

(b) section 64 (powers of inspectors as to poultry);

(c) section 66 (refusal and obstruction);

(d) section 67 (issue of false licences etc.);

(e) section 68 (issue of licences etc. in blank);

(f) section 70 (alteration of licences etc.);

(g) section 71 (other offences as to licences);

(h) section 73 (general offences), but no contravention of, or failure to comply with, a provision of these Regulations by the Scottish Ministers, a local authority, a veterinary inspector or an inspector shall constitute a contravention for the purposes of that section;

(i) section 77 (money recoverable summarily); and

(j) section 79(1) to (4) (evidence and procedure),

and as if the definition of poultry in section 87 of the Act was extended to include all birds.

(2) Section 69 of the Act (falsely obtaining licences etc.) applies as if licences granted under these Regulations were granted under an Order made under the Act.

(3) A person who, by virtue of these Regulations is guilty of an offence under the Act, is liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding level 5 on the standard scale or to both.

(4) If an offence committed by a body corporate is shown—

(a) to have been committed with the consent or connivance of an officer; or

(b) to be attributable to any neglect on the officer's part,

the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.

(5) If the affairs of a body corporate are managed by its members, paragraph (4) applies in relation to the acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body.

(6) "Officer", in relation to a body corporate, means a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity.

(7) "Body corporate" includes a partnership in Scotland and, in relation to such a partnership, a reference to an officer of a body corporate is a reference to a partner.

(8) Subject to paragraph (9), these Regulations shall be enforced by the local authority.

(9) The Scottish Ministers may direct, in relation to cases of a particular description or any particular case, that an enforcement duty imposed on a local authority under paragraph (8) shall be discharged by the Scottish Ministers and not by the local authority.

General powers of inspectors to take action to prevent the spread of avian influenza

27.—(1) This regulation applies to every vaccination zone and every premises stipulated in a vaccination notice.

(2) A veterinary inspector or an inspector acting under a veterinary inspector's direction may, if the inspector considers it necessary to prevent the risk of the spread of avian influenza, require—

- (a) the detention and isolation of any vehicle, equipment or other thing and its subsequent cleansing and disinfection by serving a notice requiring such action on the occupier of the premises where it is present, or on the person in charge of it;
- (b) the cleansing and disinfection of any premises or part of any premises by serving a notice requiring it on the occupier of those premises;
- (c) the detention or isolation in a specified place of any animal, poultry or other captive bird by serving a notice on the occupier of the premises where it is present, or on its keeper;
- (d) the separation of any animal, poultry or other captive bird from other animals, poultry or other captive birds by serving a notice requiring it on the occupier of the premises where it is present, or on its keeper.

(3) A notice under this regulation may contain such directions and conditions as the person serving it considers necessary to prevent the risk of the spread of avian influenza.

Powers of inspectors in case of default

28.—(1) Where a person fails to comply with a requirement imposed by or under these Regulations, an inspector may take any steps which the inspector considers necessary to ensure the requirement is met.

(2) Where a person acts in contravention of a requirement imposed by or under these Regulations, an inspector may take any steps which the inspector considers necessary to rectify the situation so as to prevent the spread of avian influenza.

(3) When taking steps under paragraph (1) or (2) an inspector may seize and detain any animal, poultry or other captive bird, poultry or other captive bird product, vehicle or other thing moved, kept or otherwise dealt with in contravention of a restriction or requirement imposed by or under these Regulations.

(4) When taking steps under paragraph (1) or (2), an inspector may by notice served on any person direct that person to take or refrain from specified action in respect of any place, animal, poultry or other captive bird, poultry or other captive bird product, vehicle or other thing.

(5) Any steps taken under this regulation are without prejudice to proceedings for an offence arising out of the default.

(6) The person in default shall reimburse any reasonable expenses incurred by the Scottish Ministers or the local authority in taking such steps.