

**2005 No. 646**

**ANIMALS**

**ANIMAL HEALTH**

**The Avian Influenza (Preventive Measures) (Scotland)  
Amendment Regulations 2005**

<i>Made</i> - - - -	<i>15th December 2005</i>
<i>Laid before the Scottish Parliament</i>	<i>15th December 2005</i>
<i>Coming into force</i> - -	<i>16th December 2005</i>

The Scottish Ministers, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a) and of all other powers enabling them in that behalf, hereby make the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Avian Influenza (Preventive Measures) (Scotland) Amendment Regulations 2005 and shall come into force on 16th December 2005.

**Amendment of the Avian Influenza (Preventive Measures) Regulations 2005**

2. The Avian Influenza (Preventive Measures) Regulations 2005(b) shall be amended in accordance with regulations 3 to 5 of these Regulations.

**Amendment to regulation 2**

3. In regulation 2 (interpretation) for the definition of “the Commission Decision” substitute—  
““the Commission Decision” means Commission Decision 2005/734/EC laying down biosecurity measures to reduce the risk of transmission of highly pathogenic avian influenza caused by Influenza virus A 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(c) as amended by Commission Decision 2005/745/EC(d) and Commission Decision 2005/855/EC(e);”.

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(a) 1972 c.68; section 2(2) was amended by the Scotland Act 1998 (c.46), Schedule 8, paragraph 15(3). The functions conferred on a Minister of the Crown by section 2(2) were transferred, insofar as within devolved competence, to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.

(b) S.S.I. 2005/530.

(c) O.J. L 274, 20.10.2005, p.105.

(d) O.J. L 279, 22.10.2005, p.79.

(e) O.J. L 316, 2.12.2005, p.21.

#### **Amendment to regulation 6**

4. In regulation 6 (identification of commercial poultry premises)–

(a) after paragraph (2) insert–

“(2A) Persons who commence to keep 50 or more poultry on any commercial poultry premises after 28th February 2006 shall notify the written record referred to in paragraph (1) to the Scottish Ministers within 30 days of so commencing.”; and

(b) in paragraph (3) after “fact” insert “on or before 28th February 2006”.

#### **Amendment to regulation 11**

5. In regulation 11(1) (penalties and time limits) for “six” substitute “three”.

St Andrew’s House,  
Edinburgh  
15th December 2005

*ROSS FINNIE*  
A member of the Scottish Executive

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the provisions of the Avian Influenza (Preventive Measures) (Scotland) Regulations 2005 (“the principal Regulations”). The principal Regulations give effect to Commission Decision 2005/734/EC laying down biosecurity measures to reduce the risk of transmission of highly pathogenic avian influenza caused by Influenza virus A 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 (O.J. No. L 274, 20.10.2005, p.105) (“Commission Decision 2005/734/EC”) as amended by Commission Decision 2005/745/EC (O.J. No. L 279, 22.10.2005, p.79).

Commission Decision 2005/734/EC has been subsequently amended by Commission Decision 2005/855/EC (O.J. No. L 316, 2.12.2005, p.21) to provide:

- (a) that member States shall regularly review the measures they have taken to reduce the risk of transmission of highly pathogenic avian influenza caused by Influenza A virus subtype H5N1 (as required by Article 1 of Commission Decision 2005/734/EC) to adjust to the changing epidemiological and ornithological situation;
- (b) for the inclusion within the requirement to prohibit the bringing together of birds, point to point races of birds; and
- (c) to extend the period of application of the measures provided for in Commission Decision 2005/734/EC (as amended) to 31st May 2006.

These Regulations by replacing the definition of the Commission Decision in the principal Regulations give effect to these amendments (regulation 3).

In addition regulation 4 of these Regulations amends regulation 6 of the principal Regulations to provide–

- (a) a time limit for the notification of the written record, referred to in paragraph (1) of that regulation, by persons who commence to keep 50 or more poultry after 28th February 2006; and
- (b) provide a time limit for the notification of the information required under paragraph (3) of that regulation.

These Regulations also correct an error in regulation 11 (penalties and time limits) of the principal Regulations by reducing the maximum term of imprisonment, on summary conviction, for offences under the principal Regulations, from six months to three months (regulation 5).

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