
SCOTTISH STATUTORY INSTRUMENTS

2006 No. 196

**The Avian Influenza (H5N1 in
Wild Birds) (Scotland) Order 2006**

PART 2

Confirmation or suspicion of H5N1

Confirmation or suspicion of H5N1 in wild birds

8. –

(1) This article applies if the Chief Veterinary Officer (Scotland) advises the Scottish Ministers that—

- (a) the avian influenza virus of the H5 subtype is present in a wild bird or the carcass of a wild bird in Great Britain; and
- (b) either—
 - (i) the Chief Veterinary Officer (Scotland) suspects that the neuraminidase type may be N1; or
 - (ii) the neuraminidase has been confirmed as N1.

(2) If the wild bird or carcass was found in Scotland, the Scottish Ministers must declare an area to be a wild bird protection zone and an area to be a wild bird surveillance zone.

(3) If the wild bird or carcass was found in England or Wales—

- (a) subject to sub-paragraphs (b) and (c), the Scottish Ministers may declare an area to be a wild bird protection zone or a wild bird surveillance zone;
- (b) the Scottish Ministers must declare an area to be a wild bird protection zone if the wild bird or carcass was found within three kilometres of the border with Scotland;
- (c) the Scottish Ministers must declare an area to be a wild bird surveillance zone if the wild bird or carcass was found within ten kilometres of the border with Scotland.

(4) An area shall remain a wild bird protection zone until—

- (a) the Scottish Ministers amend the declaration so that the area within its boundaries becomes part of the wild bird surveillance zone; or
- (b) the Scottish Ministers revoke the declaration.

(5) An area shall remain a wild bird surveillance zone until the Scottish Ministers revoke the declaration.

Extent of wild bird protection and surveillance zones

9. –

(1) Subject to this article, a wild bird protection zone or a wild bird surveillance zone shall be of such size as the Scottish Ministers consider fit to prevent the spread of avian influenza.

(2) A wild bird protection zone must be centred on the place where the wild bird or carcase was found and its boundaries must be at least three kilometres from that place.

(3) A wild bird surveillance zone must be centred on the place where the wild bird or carcase was found and its boundaries must be at least ten kilometres from that place.

(4) The Scottish Ministers must take into account the following factors in deciding the extent of any wild bird protection zone or wild bird surveillance zone—

- (a) the geographical features of the proposed zones;
- (b) any administrative boundaries;
- (c) any ecological factors;
- (d) any epizootic factors;
- (e) monitoring facilities; and
- (f) any other factor they consider relevant to the effect of the proposed declaration.

Measures applicable in wild bird protection zones and surveillance zones

10. –

- (1) The measures in Schedule 1 apply in respect of a wild bird protection zone.
- (2) The measures in Schedule 2 apply in respect of a wild bird surveillance zone.
- (3) The measures in Schedule 3 apply in respect of a wild bird protection zone and a wild bird surveillance zone.

Additional measures

11. –

(1) The Scottish Ministers may, in declaration of a wild bird protection zone or a wild bird surveillance zone, impose additional measures if they consider that these are necessary to reduce the risk of the spread of avian influenza, including measures to—

- (a) prevent direct or indirect contact which wild birds might otherwise have with poultry and other captive birds;
 - (b) reduce the risk of feed and water provided to poultry and other captive birds being contaminated with avian influenza virus;
 - (c) reduce the risk of the spread of avian influenza between premises.
- (2) The Scottish Ministers' powers under paragraph (1) include powers to—
- (a) require domestic ducks and geese to be housed or otherwise kept separate from other poultry and captive birds;
 - (b) require that poultry and other captive birds are provided with feed and water to which wild birds have no access or which has been treated to render any avian influenza virus inactive;
 - (c) require the separation between domestic ducks and geese on the one hand and other poultry on the other;
 - (d) prohibit the use of birds of the orders Anseriformes (including ducks, geese and swans) and Charadriiformes (including gulls, murre, terns, avocets, puffins, woodcock, oystercatchers, sandpipers, plovers, surfbirds, snipes and skimmers) as decoys during bird hunting; and
 - (e) require keepers of poultry and other captive birds and others who come into contact with such birds to cleanse and disinfect their footwear and take such other biosecurity measures as a veterinary inspector may require;

- (f) restrict the movement of vehicles or persons involved in—
 - (i) feed supply;
 - (ii) the supply of agricultural equipment;
 - (iii) the collection of eggs;
 - (iv) the transportation of poultry to slaughterhouses;
 - (v) the collection of carcasses for disposal;
- (g) restrict the movement of those working on premises or of veterinarians;
- (h) restrict the movement of any person onto any premises (including common, unenclosed and waste land and agricultural buildings), notwithstanding the existence of any public footpath or right of way.

(3) The power to prohibit or restrict movement under paragraph (2)(h) applies only in relation to a wild bird protection zone and does not include a power to prohibit or restrict movement onto premises by—

- (a) the owner or occupier of the premises;
- (b) any person whose principal residence or place of employment is those premises;
- (c) an inspector or other officer of the Scottish Ministers or an inspector of the local authority;
- (d) a person entering under the authority of a licence granted by a veterinary inspector or by an inspector acting at the direction of a veterinary inspector;
- (e) a person for the provision of emergency services.

(4) An inspector must cause a notice of a prohibition declared in accordance with paragraph (2)(h) (“a prohibition notice”) to be displayed at every entrance to the prohibited place.

Duty to inspect commercial premises

12. –

(1) The Scottish Ministers must ensure that a veterinary inquiry or veterinary surveillance is started as soon as possible at every commercial premises in a wild bird protection zone.

(2) Every veterinary inspector carrying out such an inquiry or surveillance must—

- (a) undertake a clinical inspection of all poultry flocks on the premises; and
- (b) at the request of the Chief Veterinary Officer (Scotland), collect such samples for laboratory analysis as is necessary to monitor the spread of avian influenza.

(3) In this article “commercial premises” means premises where poultry or other captive birds are kept for commercial purposes and does not include premises where all poultry and their eggs are kept by their owners for their own consumption or use or, in the case of poultry, as pets.

Maintenance of measures

13. –

(1) If the Chief Veterinary Officer (Scotland) advises the Scottish Ministers that avian influenza of sub-type H5 and neuraminidase N1 is present in the wild bird or carcass referred to in article 8(1)

(a) the Scottish Ministers must not—

- (a) amend any declaration made under article 8 so that the wild bird protection zone becomes part of the wild bird surveillance zone until at least 21 days have elapsed from the date on which the sample showing the presence of the H5 virus was collected from that wild bird or carcass; or

- (b) revoke any declaration made under article 8 until at least 30 days have elapsed from the date the Chief Veterinary Officer (Scotland) advised the Scottish Ministers of the presence of H5 in that wild bird or carcase.

(2) If the Chief Veterinary Officer (Scotland) advises the Scottish Ministers that in the opinion of the Chief Veterinary Officer (Scotland) avian influenza of sub-type H5 and neuraminidase N1 is not present in the wild bird or carcase referred to in article 8(1)(a), the Scottish Ministers must revoke any declaration made under article 8 without delay.

Treatment against avian influenza

14. Where a movement of controlled meat out of the wild bird protection zone is permitted by paragraph 5(1)(c) of Part 3 of Schedule 1, the occupier of the establishment to which it is moved must ensure that it is subjected to a treatment against avian influenza referred to in paragraph 5(2) of that Schedule.

Restriction on movement on poultry

15. –

(1) If a veterinary inspector, or an inspector acting at the direction of a veterinary inspector, grants a licence for—

- (a) the movement of poultry, farmed feathered game or day-old chicks out of the wild bird protection zone in accordance with paragraph 1(2)(a), paragraph 1(2)(b), paragraph 1(2)(c) or paragraph 1(2)(d) of Part 1 of Schedule 1; or
- (b) the movement of poultry out of the wild bird surveillance zone to premises other than a slaughterhouse in accordance with paragraph 1(2)(a) of Schedule 2,

the occupier of premises to which those poultry or day-old chicks are moved must ensure that neither they nor any other poultry are moved off the premises for 21 days from the date of their arrival.

Slaughter of poultry

16. The occupier of a slaughterhouse to which poultry are moved in accordance with—

- (a) paragraph 1(2)(b) or paragraph 3(2) of Part 1 of Schedule 1; or
- (b) paragraph 1(2)(a) of Schedule 2,

must ensure that the poultry are slaughtered without delay.