
SCOTTISH STATUTORY INSTRUMENTS

2006 No. 196

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

PART 3

Miscellaneous

Powers of a veterinary inspector to impose biosecurity measures

17. –

(1) A veterinary inspector may, if the inspector considers it necessary to prevent the spread of avian influenza, require—

- (a) the detention and isolation of any vehicle, equipment or other thing by serving a notice on the occupier of the premises where it is, or on the person in charge of it;
- (b) the cleansing and disinfection of any premises where poultry or other captive birds are kept, by serving a notice on the occupier of those premises;
- (c) the relocation of bird food and water supply on any premises where poultry and other captive birds are kept by serving a notice on the occupier of those premises;
- (d) the provision of facilities for disinfection on any premises where poultry or other captive birds are kept, by serving a notice on the occupier of those premises;
- (e) the screening of any body of water on any premises where poultry or other captive birds are kept to prevent access by wild waterfowl, by serving a notice on the occupier of those premises;
- (f) the removal, laundering, cleansing and disinfection or disposal of the clothing or footwear of any person by serving a notice on that person;
- (g) any person to cleanse himself or herself by serving a notice on that person;
- (h) the detention or isolation in a specified place of any bird by serving a notice on the occupier of the premises where it is or on its keeper; and
- (i) the separation of any bird from other birds by serving a notice on the occupier of the premises where it is or on its keeper.

(2) A notice served under this article may contain such directions and conditions as the veterinary inspector consider necessary to prevent the spread of avian influenza.

Powers of entry for enforcement

18. –

(1) An inspector who enters any vehicle, land, building or other place in exercise of the inspector's power under section 64 of the Act may take with them such person or thing as the inspector considers necessary for the enforcement of this Order.

(2) The occupier of the premises under investigation must provide such assistance or information as the veterinary inspector may reasonably require.

Powers of inspectors in case of default

19. –

(1) Where a person fails to comply with a requirement imposed by or under this Order an inspector may take any steps that they consider necessary to ensure the requirement is met.

(2) In taking steps under paragraph (1) an inspector may seize and detain any bird moved, kept or otherwise dealt with in contravention of a restriction or requirement imposed by or under this Order.

(3) The person in default shall reimburse any reasonable expenses incurred by the Scottish Ministers or the local authority in taking such steps and any such debt is recoverable summarily.

Cost of compliance

20. The costs incurred by any person in taking any action required by, or of refraining from taking action prohibited by, this Order (or of any declaration, licence or notice under it) must be met by that person unless the Scottish Ministers otherwise direct in writing.

Reasonable assistance

21. Any person required to give reasonable assistance or information to a person acting under this Order shall, unless that person has reasonable cause, do so without delay.

False information

22. No person shall furnish information which that person knows to be false or misleading to a person acting under this Order.

Offences by bodies corporate

23. –

(1) If an offence under this Order 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 negligence on the part of that officer, the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.

(2) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if the member were a director of the body.

(3) “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.

(4) “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.

Offences: no knowledge of restriction or requirement

24. No person shall be guilty of failing to comply with a restriction or requirement which applies because of the declaration of—

- (a) a wild bird protection zone; or
- (b) a wild bird surveillance zone,

if that person shows to the court's satisfaction that they did not know of that restriction or requirement and that they could not with reasonable diligence have obtained knowledge of it.

Enforcement

25. –

- (1) The local authority must, subject to paragraph (2), enforce this Order.
- (2) 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 this Order must be discharged by the Scottish Ministers and not by the local authority.