
SCOTTISH STATUTORY INSTRUMENTS

2006 No. 237

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

Citation, commencement and extent

1. –

(1) This Order may be cited as the Avian Influenza (H5N1 in Wild Birds) (Scotland) Amendment Order 2006 and shall come into force on 28th April 2006.

(2) This Order extends to Scotland only.

Amendments to the Avian Influenza (H5N1 in Wild Birds) (Scotland) Order 2006

2. The Avian Influenza (H5N1 in Wild Birds) (Scotland) Order 2006 is amended in accordance with articles 3 to 13.

3. In article 2 (interpretation)–

(a) after the definition of “day-old chicks” insert–

““designated” means designated in accordance with articles 5A and 17;”;

(b) for the definition of disinfection, substitute–

““disinfection” means disinfection with a disinfectant which is approved in the Diseases of Animals (Approved Disinfectants) Order 1978(1) for use for the purposes of the “Diseases of Poultry Order” (that term having the meaning given to it in the 1978 Order);”;

(c) for the definition of “poultry product” substitute–

““poultry product” means any poultry carcase, egg or other thing originating or made (whether in whole or in part) from poultry or from a poultry carcase;”;

(d) after the definition of “slaughterhouse” insert the following–

““SPF egg” means a specific pathogen free hatching egg for use for diagnostic procedures in laboratories for the production and testing of vaccines and for research or pharmaceutical purposes;

“table egg” means an egg intended for human consumption;”.

4. In article 3 (extension of definition of “poultry”) for “comprise” substitute “include”.

5. In article 5 (licences)–

(a) in paragraph (1) for “Scottish Ministers” substitute “person granting the licence”; and

(b) for paragraph (2)(c)(ii) substitute–

“(ii) “ensure poultry products moved under licence are obtained, handled, treated, stored and transported separately from poultry products which may be moved without licence under this Order;”.

6. After article 5 insert–

“Designations

5A. –

(1) Designations under this Order–

- (a) must be in writing;
- (b) may be made subject to such conditions as the Scottish Ministers consider necessary to control avian influenza; and
- (c) may be amended or revoked in writing at any time.

(2) Except when otherwise directed by the Scottish Ministers, premises in England, Wales or Northern Ireland designated respectively by the Secretary of State, the National Assembly for Wales, or by the Department for Agriculture and Rural Development of Northern Ireland for the same purposes as they may be designated under this Order are deemed to be designated by the Scottish Ministers for the purposes of this Order.”

7. In article 6(1) (publications of declarations, licences and notices), after “licences” insert “, designations”.

8. In article 11 (additional measures)–

- (a) in paragraph (2)(a) “otherwise”;
- (b) for paragraph (2)(c) substitute “require the separation of domestic ducks and geese from other poultry;”;
- (c) at the beginning of paragraph (2)(h) insert “prohibit or”; and
- (d) for paragraph (4) substitute–

“(4) An inspector must cause a notice of a prohibition or restriction declared in accordance with paragraph (2)(h) (“a prohibition notice” or “a restriction notice”, as the case may be) to be displayed at every entrance to the place to which it applies.”.

9. For article 12 substitute–

“12. –

(1) The Scottish Ministers must ensure that–

- (a) premises within the wild bird protection zone and the wild bird surveillance zone where poultry and other captive birds are kept are identified as soon as is reasonably practicable; and
- (b) a veterinary inspector visits all commercial premises within the wild bird protection zone as often as the Scottish Ministers consider necessary to monitor the spread of avian influenza.

(2) On each visit the veterinary inspector must clinically inspect poultry on the commercial premises and if the inspector considers it necessary or is directed by the Scottish Ministers, collect samples for laboratory examination.

(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 kept by their owners are kept for their own consumption or use or, in the case of poultry, as pets.”.

10. In article 13(1)(b) for “the date the Chief Veterinary Officer (Scotland) advised the Scottish Ministers of the presence of H5 in that wild bird or carcass” substitute “that date”.

11. After article 17 insert–

“Designation of premises which may receive poultry or poultry products

17A. –

(1) The occupier of the following premises may apply in writing to the Scottish Ministers to be designated for the following purposes–

- (a) a slaughterhouse for the purposes of receiving poultry moved under a licence granted under this Order;
- (b) a hatchery for the purpose of receiving eggs moved under a licence granted under this Order;
- (c) a laboratory or an institute for the purpose of receiving eggs moved under a licence granted under this Order for use for scientific, diagnostic or pharmaceutical purposes;
- (d) a plant approved in accordance with Chapter III or Chapter IV of Regulation (EC) No. 1774/2002⁽²⁾ for the purpose of receiving animal by-products for treatment or incineration in accordance with this Order.

(2) The Scottish Ministers must not make such a designation unless they are satisfied that the premises are so constructed and operated that the risk of the transmission of avian influenza from them is minimal.

(3) The following premises are deemed to be designated under paragraph 1(c), unless the Scottish Ministers direct otherwise by notice to the occupier of the premises–

- (a) premises licensed to manufacture or assemble human vaccines under section 8 of the Medicines Act 1968⁽³⁾;
- (b) premises authorised to manufacture animal vaccines under regulation 5 of the Veterinary Medicines Regulations 2005⁽⁴⁾;
- (c) premises licensed under sections 4 or 5 of the Animals (Scientific Procedures) Act 1986⁽⁵⁾; and
- (d) premises licensed under article 4 of the Specified Animal Pathogens Order 1998⁽⁶⁾.

Powers of entry to take tests and samples

17B. –

(1) A veterinary inspector who enters any land, building or other place in exercise of the inspector’s power under section 63 or 64 of the Act may–

- (a) mark, or cause to be marked, for identification purposes any bird, carcase or other thing;
- (b) make such inquiries of any person as the inspector considers necessary; and
- (c) be accompanied by such person or thing as the inspector considers necessary for the execution of the inspector’s functions under sub-paragraphs (a) or (b).

(2) No person shall deface, obliterate or remove any mark applied under paragraph (1) (a), except with the written authority of a veterinary inspector.

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

(2) O.J. No. L 273, 10.10.02, p.1.
(3) 1968 c. 67.
(4) S.I. 2005/2745.
(5) 1986 c. 14.
(6) S.I. 1998/463.

12. Articles 14 to 17 are omitted.
13. In article 18(1) for “section 64” substitute “section 64A”.
14. For Schedules 1 to 3 substitute–

“SCHEDULE 1

Article 10(1)

Measures applicable in respect of a wild bird protection zone

PART 1

Movement and gathering of birds

Prohibition on the movement of poultry and other captive birds from premises in a wild bird protection zone

1. –

(1) No person may move poultry or other captive birds from premises in a wild bird protection zone except under the authority of a licence granted by a veterinary inspector or an inspector acting at the direction of a veterinary inspector.

(2) A veterinary inspector may not grant or direct the grant of a licence under sub-paragraph (1) unless it is for a movement of–

- (a) poultry and farmed feathered game to premises in the wild bird protection zone or the associated wild bird surveillance zone;
- (b) ready-to-lay pullets to other premises in the United Kingdom;
- (c) poultry to a designated slaughterhouse for slaughter;
- (d) day-old chicks–
 - (i) to premises where no poultry or captive birds (other than pet birds, which are kept separately from the chicks) are kept; or
 - (ii) to other premises in vehicles sealed by a veterinary inspector (or in accordance with that inspector’s instructions);
- (e) a maximum of five pet birds to premises on which no poultry are kept; or
- (f) other captive birds–
 - (i) from a body, institute or centre in a wild bird protection zone approved in relation to the birds to be moved under regulation 9 of the Animals and Animal Products (Import and Export) (Scotland) Regulations 2000(7); and
 - (ii) to another body, institute or centre so approved.

(3) In this paragraph, “associated wild bird surveillance zone” means, in relation to a wild bird protection zone, the wild bird surveillance zone centred on the same place as that wild bird protection zone.

Restriction on movement of poultry from premises of destination

2. If a veterinary inspector, or an inspector acting at a veterinary inspector’s direction, grants a licence for a movement of any poultry or farmed feathered game under paragraph 1(2)(a), (b), (d), or (e) the occupier of the premises to which they are moved must ensure that neither they nor

any other poultry or farmed feathered game are moved off the premises for 21 days from the date when those poultry or farmed feathered game arrived.

Slaughter of poultry

3. The occupier of a slaughterhouse to which poultry are moved in accordance with paragraph 1(2)(c) must ensure that the poultry are slaughtered without delay.

Prohibition on the movement of poultry and other captive birds in to or out of a wild bird protection zone

4. No person may move poultry or other captive birds in to or out of a wild bird protection zone except where the movement is—

- (a) through the zone on a major highway or railway and provided that no stop is made within the zone;
- (b) in the case of poultry, from outside the zone to a designated slaughterhouse in the zone; or
- (c) licensed under paragraph 1.

PART 2

Movement of hatching eggs and SPF eggs

Prohibition on the movement of hatching eggs from a wild bird protection zone

5. –

(1) For the purposes of this Part “EEA State” means a member State, Norway, Iceland or Liechtenstein.

(2) No person may move any hatching egg from a wild bird protection zone except under the authority of a licence granted by a veterinary inspector or an inspector acting at the direction of a veterinary inspector.

(3) A veterinary inspector may not grant or direct the grant of a licence under sub-paragraph (2), except for the movement of hatching eggs—

- (a) to a designated hatchery;
- (b) to a designated laboratory or institute for scientific, diagnostic or pharmaceutical use; or
- (c) for the purpose of trade with another EEA State.

(4) A veterinary inspector may not grant or direct the grant of a licence under sub-paragraph (2) for movement for the purpose of trade with another EEA State unless—

- (a) every hatching egg was collected from a flock which—
 - (i) is not suspected of being infected with avian influenza, and
 - (ii) has tested negative in a serological survey for avian influenza capable of detecting 5% prevalence of the disease with at least a 95% level of confidence, carried out to the satisfaction of the Scottish Ministers;
- (b) the inspector is satisfied that all the hatching eggs and their packaging have been disinfected before loading; and
- (c) the inspector is satisfied that, once moved, all the hatching eggs will be traceable to the premises of origin.

(5) No person may move any hatching egg under the authority of a licence granted under subparagraph (2) for a movement for the purpose of trade with another EEA State unless the vehicle used for movement was sealed after loading by a veterinary inspector or by a person acting at that inspector's direction.

Prohibition on the movement of an SPF egg from the wild bird protection zone

6. No person may move any SPF egg out of a wild bird protection zone except to a designated laboratory or institute for scientific, diagnostic or pharmaceutical uses under the authority of a licence granted by a veterinary inspector or an inspector acting at the direction of a veterinary inspector.

PART 3

Movement of controlled meat

Interpretation of Part 3

7. In this Part–

- (a) “a treatment against avian influenza” means either–
- (i) a heat treatment in a hermetically sealed container with an F_0 value of 3 or more (where F_0 is the calculated killing effect on bacterial spores and an F_0 value of 3 means that the coldest point in the meat has been heated to achieve the same killing effect as 121°C in three minutes with instantaneous heating and chilling); or
 - (ii) a heat treatment at a minimum temperature of 70°C, which temperature must be reached throughout the meat;
- (b) “Regulation 853/2004” means Regulation (EC) No. 853/2004 of the European Parliament and of the Council laying down specific hygiene rules for food of animal origin (8) as amended by Regulation (EC) No. 2074/2005 (9) and Regulation (EC) No. 2076/2005 (10) and as read with Directive 2004/41 (11), Regulation (EC) No. 1688/2005 (12), Regulation (EC) No. 2074/2005 and Regulation (EC) No. 2076/2005; and
- (c) “Regulation 854/2004” means Regulation (EC) No. 854/2004 of the European Parliament and of Council laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption (13) as amended by Regulation 882/2004 (14), Regulation 2074/2005 and Regulation 2076/2005 and as read with Directive 2004/41, Regulation 2074/2005, Regulation 2075/2005 (15) and Regulation 2076/2005.

(8) O.J. No. L 139, 30.4.04, p.55. The revised text of the Regulation is contained in a corrigendum (O.J. No. L 226, 25.6.04, p.22).

(9) O.J. No. L 338, 22.12.05, p.27.

(10) O.J. No. L 338, 22.12.05, p. 83.

(11) O.J. No. L 157, 30.4.04, p.33. The revised text of Directive 2004/41 is contained in a corrigendum (O.J. No. L 195, 2.6.04, p.12.)

(12) O.J. No. L 271, 15.10.05, p.17.

(13) O.J. No. L 139, 30.4.04, p.206. The revised text of the Regulation is contained in a corrigendum (O.J. No. L 226, 25.6.04, p.83).

(14) O.J. No. L 165, 30.4.04, p.1. The revised text of Regulation 882/2004 is contained in a corrigendum (O.J. No. L 191, 28.5.04, p.1).

(15) O.J. No. L 338, 22.12.05, p.60.

Restriction on the movement of controlled meat out of a wild bird protection zone

8. –

(1) No person may move controlled meat, other than controlled meat specified in subparagraphs (a) to (g), out of a wild bird protection zone–

- (a) fresh meat from poultry that was produced in accordance with Annex II and Sections II and III of Annex III to Regulation 853/2004 and has been subject to the official controls set out in Sections I, II and III, and Chapters V and VII of Section IV of Annex I to Regulation 854/2004;
- (b) processed fresh meat or meat products produced from fresh meat from poultry that was produced in accordance with Sections V and VI of Annex III to Regulation 853/2004;
- (c) fresh meat from wild feathered game originating in the zone that is marked in accordance with paragraph 10 and transported to an establishment for a treatment against avian influenza;
- (d) a meat product produced from meat from wild feathered game which has been subjected to a treatment against avian influenza;
- (e) fresh meat from wild feathered game originating outside the zone that was produced at an establishment in the zone in accordance with Section IV of Annex III to Regulation 853/2004 and has been subject to the official controls set out in Chapter VIII of Section IV of Annex I to Regulation 854/2004;
- (f) processed fresh meat or meat products produced from fresh meat from wild feathered game originating outside the zone that was produced at an establishment in the zone in accordance with Sections V and VI of Annex III to Regulation 853/2004;
- (g) fresh meat or processed fresh meat from poultry or farmed feathered game transported to the other parts of the United Kingdom, if such meat–
 - (i) is identified–
 - (aa) in accordance with paragraph 10; or
 - (bb) with the national mark established in accordance with Article 4 of Regulation (EC) No. 2076/2005(16);
 - (ii) was obtained, cut, stored and transported separately from other fresh meat from poultry destined for dispatch to other Member States or third country; and
 - (iii) is used in such a way as to avoid it being introduced into meat products or meat preparations intended for placing on the market outside the United Kingdom, unless it has undergone a treatment against avian influenza.

Treatment against avian influenza

9. Where a movement of controlled meat out of the wild bird protection zone is permitted by paragraph 8(1)(c), the occupier of the establishment to which it is moved must ensure that it is subjected to a treatment against avian influenza.

Requirements for the marking of meat

10. –

(1) The mark applied under paragraph 8(1)(c) and 8(1)(g)(i)(aa) must bear a diagonal cross consisting of 2 straight lines intersecting at the centre of the stamp and enabling the information on the stamp to remain legible.

- (2) The mark may be applied using a single oval stamp, 6.5 centimetres wide by 4.5 centimetres high.
- (3) The following must appear on the mark and be clearly legible—
- (a) on the upper part, “United Kingdom” or “UK”;
 - (b) in the centre, the slaughterhouse approval number;
 - (c) on the lower part, “EC”; and
 - (d) information sufficient to identify the veterinary inspector who inspected the meat.
- (4) The letters on the mark must be at least 0.8 centimetres high and the figures at least 1 centimetre high.
- (5) The mark must be applied under the direct supervision of a veterinary inspector.

Cleansing of vehicles leaving a slaughterhouse

11. A person who removes a vehicle containing controlled meat from a slaughterhouse must ensure that its wheels and wheel arches are cleansed and disinfected prior to departure.

PART 4

Movement of poultry products other than hatching eggs and controlled meat

Restriction on the movement of poultry products from premises in a wild bird protection zone

12. –

- (1) Subject to sub-paragraph (4) and to paragraph 13, no person may move a poultry product, other than a poultry product referred to in sub-paragraph (3), from a wild bird protection zone.
- (2) In this Part any reference to a numbered Article or Annex is a reference to that Article or Annex so numbered in Regulation (EC) No. 1774/2004 of the European Parliament and of the Council laying down health rules concerning animal by-products not intended for human consumption⁽¹⁷⁾.
- (3) Those poultry products which may be moved in accordance with sub-paragraph (1) are—
- (a) processed animal protein within the meaning of paragraph 42 of Annex 1 which complies with the requirements in Part A of Chapter II of Annex VII;
 - (b) blood products within the meaning of paragraph 4 of Annex 1 which comply with the requirements in Part B of Chapter III of Annex VII;
 - (c) rendered fats within the meaning of paragraph 50 of Annex I which comply with the requirements in Part A of Chapter IV of Annex VII;
 - (d) gelatin within the meaning of paragraph 26 of Annex I which complies with the requirements in Part A of Chapter VI of Annex VII;
 - (e) hydrolysed protein within the meaning of paragraph 31 of Annex I which complies with the requirements in Part B of Chapter VI of Annex VII;
 - (f) dicalcium phosphate within the meaning of Part A of Chapter VII of Annex VII which complies with the requirements of that Part;

(17) O.J. No. L 273, 10.10.02, p.1.

- (g) tricalcium phosphate within the meaning of Part A of Chapter VIII of Annex VII which complies with the requirements of that Part;
 - (h) collagen within the meaning of paragraph 59 of Annex I which complies with the requirements in Part A of Chapter IX of Annex VII;
 - (i) egg products within the meaning of Part A of Chapter X of Annex VII which comply with that Part;
 - (j) processed petfood within the meaning of paragraph 43 of Annex I which comply with the requirements in Part B of Chapter II of Annex VIII;
 - (k) dogchews within the meaning of paragraph 22 of Annex I which comply with the requirements in Part B of Chapter II of Annex VIII;
 - (l) processed manure and processed manure products within the meaning of Part A of Chapter III(II) of Annex VIII which comply with the requirements for placing on the market in that Part;
 - (m) animal by-products within the meaning of Article 2(1)(a) which are transported in accordance with paragraph 11 to designated plants for treatment using any of processing methods 1 to 5 in Chapter III of Annex V or incineration;
 - (n) animal by-products within the meaning of Article 2(1)(a) which are transported in accordance with paragraph 11 to users or collection centres authorised and registered in accordance with Article 23(2) for the feeding of animals if they have been treated to ensure no avian influenza pathogens remain;
 - (o) untreated feathers or parts of untreated feathers produced from poultry originating outside the wild bird protection zone which comply with the requirements of point 1(a) of Part A of Chapter VIII of Annex VIII;
 - (p) poultry feathers or parts of poultry feathers which have been treated with a steam current, or by another method to ensure that no avian influenza pathogens remain.
- (4) The prohibition in sub-paragraph (1) does not apply to a movement permitted under Part 3.
- (5) Poultry products referred to in sub-paragraph (3)(p) must be accompanied by a commercial document in accordance with Chapter X of Annex II which states in point 6.1 of that document that they have been treated with a steam current or with another method to ensure no avian influenza pathogen remains.
- (6) Sub-paragraph (5) does not apply to processed decorative feathers or processed feathers carried by travellers for their private use or consignments of processed feathers sent to private individuals for non-industrial purposes.

Permitted movement: poultry products not subject to an animal health ban or restriction

13. The following products derived from poultry which are not subject to any animal health conditions or which are not subject to any ban or restriction for reasons of animal health are permitted to be moved from the wild bird protection zone—

- (a) game trophies of birds having undergone a complete taxidermy treatment ensuring their preservation at ambient temperatures; and
- (b) table eggs.

Cleansing of vehicles

14. A person who removes a vehicle carrying any product referred to in paragraph 12(3) from premises in a wild bird protection zone must ensure that the wheels and wheel arches are cleansed and disinfected prior to departure from the premises.

PART 5

Other measures

Prohibition on movement of used poultry litter or poultry manure

15. No person may move any used poultry litter or poultry manure from premises in a wild bird protection zone to premises outside the zone unless—

- (a) the movement is to an establishment for treatment in accordance with Regulation (EC) No. 1774/2002; or
- (b) the used poultry litter or poultry manure has already been so treated.

Prohibition on the spread of used poultry litter or poultry manure

16. No person may spread any used poultry litter or poultry manure from premises in a wild bird protection zone outside the zone unless it has been treated in accordance with Regulation (EC) No. 1774/2002.

Prohibition on hunting wild birds in a wild bird protection zone

17. No person may hunt wild birds in a wild bird protection zone.

Prohibition on gatherings of poultry and other captive birds in a wild bird protection zone

18. No person may permit any poultry or other captive birds to be collected together in a wild bird protection zone at any fair, market, show or other gathering.

SCHEDULE 2

Article 10(2)

Measures applicable in respect of a wild bird surveillance zone

Prohibition on the movement of poultry and other captive birds from a wild bird surveillance zone

1. —

(1) No person may move poultry or other captive birds from premises in a wild bird surveillance zone except under the authority of a licence granted by a veterinary inspector or an inspector acting on the direction of a veterinary inspector.

(2) A veterinary inspector may not grant or direct the grant of a licence under sub-paragraph (1) for movement of poultry or other captive birds out of a wild bird surveillance zone before 15 days have elapsed since the declaration of the zone unless it is a movement of—

- (a) poultry to a designated slaughterhouse or to any premises other than a slaughterhouse;

- (b) a maximum of five pet birds to premises on which no poultry are kept; or
- (c) other captive birds—
 - (i) from a body, institute or centre in the zone approved in relation to the birds to be moved under regulation 9 of the Animals and Animal Products (Import and Export) (Scotland) Regulations 2000(18); and
 - (ii) to another body, institute or centre so approved.

Restriction on movement of poultry from premises of destination

2. If a veterinary inspector or an inspector acting at a veterinary inspector's direction, grants a licence for a movement of any poultry under paragraph 1(2)(a) to premises other than a slaughterhouse the occupier of the premises to which they are moved must ensure that neither they nor any other poultry are moved off the premises for 21 days from the date when those poultry arrived.

Slaughter of poultry

3. The occupier of a slaughterhouse to which poultry are moved in accordance with paragraph 1(2)(a) must ensure that the poultry are slaughtered without delay.

Prohibition on the movement of hatching eggs from premises in a wild bird surveillance zone

4. No person may move any hatching egg from premises in a wild bird surveillance zone except under the authority of a licence.

Prohibition on hunting wild birds in a wild bird surveillance zone

5. No person may hunt wild birds in a wild bird surveillance zone.

Prohibition on gatherings of poultry and other captive birds in a wild bird surveillance zone

6. No person may permit any poultry or other captive birds to be collected together in a wild bird surveillance zone at any fair, market, show or other gathering.

SCHEDULE 3

Article 10(3)

Biosecurity measures

1. –

- (1) This Schedule applies in respect of commercial premises, other than—
 - (a) slaughterhouses;
 - (b) quarantine centres;
 - (c) any premises specified as a border inspection post in Schedule 2 to the Animals and Animal Products (Import and Export)(Scotland) Regulations 2000;

- (d) premises where possession of the avian influenza virus is authorised under the Specified Animal Pathogens Order 1998(19).
- (2) In this Schedule–
 - (a) “quarantine centre” means premises where imported birds are quarantined on arrival in Scotland; and
 - (b) “commercial premises” means premises where poultry are kept for commercial purposes and does not include premises where all poultry and their eggs kept by their owners are kept for their own consumption or use or, in the case of poultry, as pets.
- 2. The occupier must ensure that poultry and other captive birds are housed or kept separate from other birds, including wild birds.
- 3. The occupier must provide and maintain means of disinfection at the entrances and exits of commercial premises and any buildings on the premises housing poultry.
- 4. A person entering or leaving commercial premises must not wear clothing or footwear which is visibly soiled with mud, droppings, animal or bird faeces, or any similar matter.
- 5. A person in charge of any vehicle entering or leaving commercial premises must ensure that–
 - (a) its wheels, wheel arches and mudflaps are cleansed and disinfected; and that
 - (b) its outside is not visibly soiled with mud, dropping, animal or bird faeces or any similar matter.”.

St Andrew’s House,
Edinburgh
27th April 2006

ROSS FINNIE
A member of the Scottish Executive